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INSTRUCTION SHEET:

COLORADO SPRINGS, Colorado

Supplement No. 10/February, 1987

Includes Ordinances: 86-66, 67, 72, 74, 75, 86,
103, 104, 106, 118, 119, 122, 123, 124, 156,
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CITY CODE
OF
COLORADO SPRINGS
COLORADO

1980



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Weiser, Idaho



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PREFACE

This volume of the Municipal Code of the City of Colorado Springs, as supplemented, contains all ordinances up to and including Ordinance 87-1, passed by the City on January 1, 1987. Ordinances of the City adopted after said Ordinance supersede the provisions of this Municipal Code to the extent that they are in conflict or inconsistent therewith. Consult the City office in order to ascertain whether any particular provision of the Code has been amended, superseded or repealed.

Sterling Codifiers, Inc.
Weiser, Idaho

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**THIS VOLUME I OF THE
COLORADO SPRINGS CITY CODE
CONTAINS THE CHARTER THROUGH CHAPTER 13.**

AN ORDINANCE ADOPTING "THE CODE OF THE CITY OF COLORADO SPRINGS, 1980" INCORPORATING THEREIN VARIOUS BUILDING CODES AND THE FIRE PREVENTION CODE AND ALL OTHER GENERAL ORDINANCES OF THE CITY OF COLORADO SPRINGS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OF A GENERAL AND PERMANENT NATURE NOT INCLUDED THEREIN, SAVE AND EXCEPT SUCH ORDINANCES PARTICULARLY SPECIFIED AS EXCEPTED FROM SUCH REPEAL; PROVIDING FOR PENALTIES FOR VIOLATION OF THE PROVISIONS OF SAID CODE AND SETTING FORTH THE PENALTIES PROVIDED FOR IN SAID CODE; AND PROVIDING FOR THE EFFECTIVE DATE OF SAID CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. That the licensing and regulation of the sale and use of alcoholic beverages, animals and fowls, auctions and auctioneers, pawnbrokers, building contractors, various amusements, massage parlors, merchant patrols and patrolmen, fumigators and exterminators, hucksters, peddlers, junk dealers, antique and secondhand dealers and other trades, occupations and businesses, the regulation of advertising, aviation, buildings, elections, disposal of garbage, trash and waste, use of parks, playgrounds and cemeteries, public improvements, streets and sidewalks, traffic, City-owned utilities, and the use of land, the selection and regulation of personnel, providing for fire protection, police protection and the protection of health and sanitation, defining and prohibiting certain offenses, the regulation and acceptance of plats and subdivisions, defining the powers and duties of the various departments of the City and the administration thereof, the levying of taxes and special assessments and the fixing of penalties and other provisions of a general nature within the City of Colorado Springs, a Municipal Corporation, or its police jurisdiction, shall be in accordance with the terms of "The Code of the City of Colorado Springs, 1980," copies of which are on file in the office of the City Clerk, together with all secondary codes duly described and incorporated therein by reference, and may be inspected during regular business hours. The said Code of the City of Colorado Springs, 1980, is hereby adopted and incorporated in this ordinance as fully as if set out at length herein, and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the City Council, and from and after the date on which this ordinance shall take effect, the provisions thereof shall be controlling on all matters contained therein.

Adopting Ordinance (cont.)

Section 2. That the following secondary codes are incorporated in the Code of the City of Colorado Springs, 1980, by reference:

- (A) The Uniform Building Code of the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, 1979 Edition, and the Uniform Building Code Standards of the International Conference of Building Officials, 1979 Edition, a secondary code incorporated by reference in the Uniform Building Code.
- (B) The Uniform Mechanical Code of the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, 1979 Edition.
- (C) The Uniform Building Code, Volume V, Signs, of the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, 1979 Edition.
- (D) The Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, 29 West 39th Street, New York, New York, 1969 Edition.
- (E) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, 5302 Alhambra Avenue, Los Angeles, California 90032, 1979 Edition.
- (F) The National Electrical Code of the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, 1978 Edition.
- (G) The Colorado Model Energy Efficiency Construction and Renovation Standards for Nonresidential Buildings, adopted November, 1977, and published March, 1978, by the State of Colorado, Office of Energy Conservation, 1600 Downing, Second Floor, Denver, Colorado 80218.
- (H) The Colorado Recommended Energy Conservation "Performance" Code for New Construction and Renovation of Residential Buildings adopted November, 1977, and published March, 1978, and amended in 1979 by the State of Colorado, Division of Housing, State Housing Board, 1313 Sherman Street, Denver, Colorado 80203.
- (I) The Uniform Fire Code, 1979 Edition of the International Conference of Building Officials and Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California 90601, including Appendices, A, B, C, E, G, H and I set forth therein.
- (J) The Uniform Fire Code Standards, 1979 Edition of the International Conference of Building Officials and the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California 90601.

Section 3. The word Code may be used as an abbreviation for "The Code of the City of Colorado Springs, 1980.

Adopting Ordinance (cont.)

Section 4. All general provisions, terms, phrases and expressions, used in the Code, or any ordinance, amending the same, shall be liberally construed, in order that the true intent and meaning of the City Council may be fully carried out.

Section 5. All ordinances and parts of ordinances of a general and permanent nature not contained in the Code are hereby repealed; but such repeals shall not be effective and operative prior to the effective and operative date of the Code of the City of Colorado Springs, 1980; provided, however, that nothing contained herein shall be construed as an attempt to repeal or amend any ordinance passed by a vote of the people of the City of Colorado Springs except insofar as the same may be superseded by or in violation of the Charter of the City of Colorado Springs or the Constitution of the State of Colorado.

Section 6. Nothing contained in this ordinance shall be construed as a limitation on the power of the City Clerk to change obvious typographical or composition errors in the Code without change of legal effect.

Section 7. The classification and arrangement by chapter, article and number system of sections of the Code, as well as the source notes, annotations, and other editorial matter included in said Code, form no part of the legislative text ordained hereby; such inclusion is only for the purpose of convenience, orderly arrangement and information, and, therefore, no implication or presumption of a legislative construction is to be drawn therefrom.

Section 8. The Code of the City of Colorado Springs, 1980, as published shall be the sole property of the City of Colorado Springs, a Municipal Corporation, as owner thereof and may be copyrighted for and in behalf of the City of Colorado Springs by the City Attorney.

Section 9. (1) The City Clerk shall distribute such sets of the Code and amendments thereto as may be necessary to the various departments of the City for the official use of City officers, boards and commissions, and for exchange purposes for similar publications of other cities. All volumes designated for official use shall remain the property of the City of Colorado Springs for the use of such official and their successors and shall bear such designation. The City Clerk shall prepare or cause to be prepared a list of the City officers, board and commissions who shall receive for official use sets of said Code, and shall thereupon deliver such sets to such officers taking a receipt for each set so delivered.

(2) The City Clerk may accept subscriptions to the supplements of the Code as issued at cost plus a reasonable amount for handling, and shall mail such copies of the supplement to such subscribers as the same are received by him and shall bill for the same. Failure of any subscriber to pay such billing on or before the date of mailing of the next subsequent supplement shall cause such subscriber to be dropped from the mailing list.

Section 10. This ordinance shall become effective on the 1st day of January, 1981, 12:01 A.M.

Adopting Ordinance (cont.)

Section 11. (1) Any person who shall violate any provision of this ordinance shall be fined not more than \$300 or imprisoned in the City jail not more than 90 days or shall suffer both fine and imprisonment. Each and every violation of the provisions of this ordinance shall constitute a separate offense.

(2) The penalties set forth in the Code are as follows:

(A) 1-2-101: GENERAL PENALTY:

- A. Any person who performs or fails to perform an act where such performance or failure to perform is declared in any provision of this Code or any rule or regulation promulgated thereunder to be unlawful or an offense or misdemeanor, or any person who performs an act which is prohibited or fails to perform an act which is required by any provision of this Code or any rule or regulation promulgated thereunder, or any person who fails to meet a standard of conduct or behavior prescribed in any provision of this Code for which no specific penalty is provided, upon conviction thereof shall be punished as provided in subsection B of this Section.
- B. Any person convicted for the violation of any provision of this Code or any rule or regulation promulgated thereunder shall be punished by a fine of not more than three hundred dollars (\$300.00), by imprisonment in jail for a period not exceeding ninety (90) days, or by both such fine and imprisonment, unless otherwise provided.
- C. A separate and distinct offense shall be deemed to have been committed for each day on which any violation of this Code or of any rule or regulation promulgated thereunder shall continue.

(B) 3-1-108: Penalty:

- A. Misfeasance, malfeasance or nonfeasance by any officer or employee of the City with respect to his duties may carry as a penalty removal from office or employment.
- B. The penalty of removal provided herein shall not be exclusive but shall be cumulative with all other penalties or remedies. Nothing contained herein shall be construed to place any additional restriction on the authority of the City Manager or the City Council to remove an officer or employee of the City.

(C) 4-3-106: FAILURE TO PAY FINE; STAY OF EXECUTION:

- A. Any person against whom any fine shall be assessed under the ordinances of the City who shall refuse or neglect to pay the same upon demand, may be committed, in default thereof, to the lawful place for the detention of City prisoners. Satisfaction for the payment of such fine shall be at the rate of three dollars (\$3.00) per twenty four (24) hour

Adopting Ordinance (cont.)

- A) day. No single term of imprisonment imposed in satisfaction of any single unpaid fine shall exceed ninety (90) days.
 - B. Defendants who are found to be indigent and unable to pay such fine, may be given the opportunity to pay such fine at a later date or in installments under a stay of execution granted by the Municipal Judge. If such a defendant is unable to meet such terms of the stay of execution because he refuses or neglects to do so, he may be imprisoned for failure to pay.
- (D) 4-3-110: CONTEMPT OF COURT:
 - A. Failure to Obey Summons or Subpoena. Failure by any person, without adequate excuse, to obey a summons, subpoena, or other court order served upon him may be deemed a contempt of the Municipal Court from which the summons, subpoena or other court order was issued; and, for failure to obey such summons, subpoena or other court order, such person may be punished as provided in Section 1-2-101 of this Code.
 - B. Personal Conduct. Failure by any person to conduct himself in a manner consistent with the decorum and respect inherent in the concept of judicial proceedings in the Municipal Court shall be deemed a contempt of Court, and the Court may punish such person as provided in Section 1-2-101 of this Code.
- (E) 4-4-310: PENALTY FOR TAMPERING WITH JURY LIST: Any person who shall do any act for the purpose of procuring his own name or the name of any other person to be placed upon the jury list, or to be omitted therefrom, except as provided in this Code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-2-101 of this Code.
- (F) 5-1-107: ELECTION OFFENSES; PENALTY:
 - C. Any person who shall violate any provision of this Chapter or of the Colorado Municipal Election Code and who is prosecuted and convicted in the Municipal Court of the City shall be punished as provided in Section 1-2-101 of this Code.
- 5-2-105: PENALTY: Every person who wilfully files a false or incomplete statement of disclosure or statement of no change of condition, or who wilfully fails to make any filing required by this Article, shall be subject to such discipline, including censure or disqualification from office, as the City Council by majority vote shall elect. Violations of this Part 1 shall not be subject to the general penalty provisions of this Code or any other penalty other than hereinabove stated.
- (G) 5-2-214: PENALTY; AFFIRMATIVE DEFENSE:
 - A. Any person who knowingly violates any provision of this Part 2 or who gives or accepts any contribution or contribution in kind required to be

Adopting Ordinance (cont.)

- G) A) reported under Section 5-2-207 in such a way as to hinder or prevent identification of the true donor, shall be guilty of a violation of the ordinances of the City, punishable as a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding three hundred dollars (\$300.00) for each offense. Any such candidate shall, in addition, forfeit his right to assume the nomination or to take the oath for the office to which he may have been elected, unless he has already taken said oath, in which case the office shall be vacated. In the event the office to which the candidate has been elected is vacated, the vacancy to said office shall be filled as provided by law.
 - B. It shall be an affirmative defense to prosecution under this Part 2 that the offender did not have actual knowledge of his responsibility under this Part 2 and was an uncompensated volunteer.
- (H) 7-1-301: DEFAULT IN PAYMENT OF ASSESSMENTS: In case of default in the payment of any assessment, the County Treasurer shall advertise and sell any and all property concerning which such default has suffered, for the payment of the whole thereon. Such advertisements and sales shall be made at the same time, in the same manner, under all the same conditions and penalties and with the same effect as provided by general law for sales of real estate in default of payment of general taxes.
- (I) 7-2-506: REVOCATION OF [SALES TAX] LICENSE; APPEAL: The Director of Finance may, on reasonable notice and after full hearing, revoke the license of any person found by the Director of Finance to have violated any provision of this Article. Any finding and order of the Director of Finance revoking the license of any person shall be subject to review by the El Paso County District Court upon application of the aggrieved party. The procedure for review shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (J) 7-2-806: CONFIDENTIAL INFORMATION, EMPLOYEE RESTRICTIONS:
 - D. Wrongfully Divulged Information. Any City officer or employee, or any member of the office of, or officer or employee of the Director of Finance who shall divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation hereof, shall be punished as provided by law, and shall be immediately dismissed from the employ of the City. Any person who requests that such confidential information be divulged shall also be guilty of a violation of this Article and subject to the penalties thereof.
- (K) 7-2-807: EXAMINATION OF RETURNS:
 - D. Negligent Deficiency. If any part of the deficiency is due to negligence, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency; and in such case interest shall be collected at the rate of one percent (1%) per month on the amount of

Adopting Ordinance (cont.)

- K) D) the deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable within ten (10) days after written notice and demand by the Director of Finance.
 - E. Fraudulent Deficiency. If any part of the deficiency is due to fraud with the intent by the taxpayer to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency, and in such case the whole amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand by the Director of Finance and an additional one percent (1%) per month on total amounts of deficiency and addition shall be added from the date the return was due until paid.
- (L) 7-2-808: EXCESS COLLECTION; FAILURE TO REMIT COLLECTIONS: If any retailer shall, during any reporting period, collect as a tax an amount in excess of two percent (2%) of his total taxable sales, he shall remit to the Director of Finance the full net amount of this tax herein imposed and also such excess. The retention by the retailer of any excess of tax collections over two percent (2%) of the total taxable sales of such retailer, or the intentional failure to remit punctually to the Director of Finance the full amount required to be remitted by the provisions of this Article, is hereby declared to be a violation of this Article and shall subject said retailer to the imposition of penalty and interest, and may subject him to other remedial actions provided for within this Article.
- (M) 7-2-1003: FAILURE TO FILE TAX RETURN, PAY TAX:
 - A. Deficiency Due to Negligence. If any taxpayer or vendor fails to file a return or to pay the tax on any return required by this Article on the date prescribed therefor, the Director shall make an estimate of the tax and shall serve on the taxpayer or vendor a written notice of final determination, assessment and demand for payment. A penalty of ten percent (10%) and interest of one percent (1%) per month of the tax due shall be charged on all overdue accounts. Waiver of all such charges except interest at six percent (6%) per annum may be made by the Director upon presentation of justifiable cause for late payment of taxes due. If such tax deficiency amount, penalty and interest is not paid, or no request for hearing under Section 7-2-903A is made within ten (10) days after written notice of final determination, assessment and demand for payment is mailed to the taxpayer, he shall waive his right of protest of such amount.
 - B. Deficiency Due to Fraud. If any taxpayer or vendor fails to file a return or pay the tax on any return required under this Article on the date prescribed therefor, determined with regard to any extension of time for filing, and any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency and in such case, the whole amount of the tax unpaid, including the additions, shall become due and payable

Adopting Ordinance (cont.)

- (M) B) ten (10) days after written notice of determination, assessment and demand for payment by the Director of Finance and an additional one percent (1%) per month on said amount shall be added from the date the return was due until paid.

- (N) 7-3-105: FAILURE TO PAY OR FILE:
 - A. If any telephone utility subject to this Article fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such utility to the City.
 - B. If any officer, agent or manager of a telephone utility which is subject to the provisions of this Article shall fail, neglect or refuse to file any statement required by this Article within the time herein prescribed, such officer, agent or manager shall be punished, on conviction thereof, as provided in Section 1-2-101 of this Code; provided, that for each day after such statement becomes delinquent during which the said officer, agent or manager shall so fail, neglect or refuse to file such statement, a separate offense shall be deemed to have been committed.

- (O) 7-4-105: FAILURE TO PAY OR FILE:
 - A. If any cable television system subject to this Article fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such cable television system to the City.
 - B. If any officer, agent or manager of a cable television system which is subject to the provisions of this Article shall fail, neglect or refuse to file any statement required by this Article within the time herein prescribed, such officer, agent or manager shall be punished, on conviction thereof, as provided in Section 1-2-101 of this Code; provided, that for each day after such statement becomes delinquent during which the said officer, agent or manager shall so fail, neglect or refuse to file such statement, a separate offense shall be deemed to have been committed.

- (P) 8-1-801: GROUNDS FOR SUSPENSION AND REVOCATION: The Licensing Officer shall suspend or revoke any license issued by the City if he finds that:
 - A. The licensee has failed to pay the annual license fee;
 - B. The licensee has failed to file required reports or to furnish such other information as may be reasonably required by the Licensing Officer or other City official

Adopting Ordinance (cont.)

- P) B) under the authority vested in him by the terms of the provisions relating to the specific license;
 - C. The licensee or any agent or employee of such licensee has violated any provisions of this Chapter pertaining to his license or any regulation or order lawfully made under and within the authority of this Chapter relating to the license;
 - D. The licensee or any agent or employee of such licensee has violated any law of the United States, of the State of Colorado or the City of Colorado Springs when such violation occurred on the licensed premises, or relates to conduct or activity of any business required to be licensed by this Chapter.
- (Q) 8-1-805: EFFECT OF SUSPENSION OR REVOCATION: Upon the effective date of suspension or revocation of any license required for a business or activity, the licensee of such licensed business or activity shall cease and desist from further operation or activity.
- (R) 8-1-807: SUMMARY SUSPENSION: When the conduct of any licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance or hazard and thus give rise to an emergency, the Licensing Officer shall have the authority to summarily order the cessation of business and the close of premises pending a hearing on the question of whether to suspend or revoke the license. Unless waived by the licensee in writing, the City Council within fifteen (15) days after the Licensing Officer has acted shall conduct a hearing upon the summary order and the activity giving rise to such order. The order shall state the grounds for its issuance and shall give notice of the hearing and shall be served upon the affected person in the manner prescribed in Section 8-1-802B. At such hearing the licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation.
- (S) 8-1-902: LATE APPLICATION FOR NEW BUSINESS:
- A. If any person shall engage in any business or activity for which a license is required without having first made application therefor, the license fee shall be deemed due upon the day the person actually commenced such business. Upon subsequent application for such license, the Licensing Officer shall impose and collect a penalty of one hundred percent (100%) in addition to the license fee and shall add an additional ten percent (10%) penalty on the last day of each calendar month subsequent to the day on which the person commenced such business.
 - B. No license shall be issued for any current period until the amount of the original license fee and all accrued penalties have been paid; provided, that the Licensing Officer shall be authorized to waive or adjust any and all such penalties whenever in his judgment the delinquency is not the fault of the applicant and to collect or require the payment thereof

Adopting Ordinance (cont.)

- S) B) would be an injustice. Simple failure to inquire whether a license is required shall never be cause for waiver or adjustment of such penalty.
- (T) 8-1-903: SEPARATE VIOLATIONS: For each day that a business or activity is operated or conducted without a current license, a separate offense shall be deemed to have been committed. Each such offense shall be punishable as provided in Section 1-2-101 of this Code. Such a continuing violation may be pleaded in a single count, but in the event of conviction, the Court's order shall specify the date or dates upon which the violation was found to occur and shall establish a penalty for each such date.
- (U) 8-2-307: CONFISCATION, DISABLING OF DEVICES: Any coin-operated amusement device or coin-operated musical device for which an insignia has not been obtained as required by this Part 3 may be sealed or otherwise disabled or made inoperative without damage to the device at the direction of the Licensing Officer or any peace officer until such insignia shall be obtained. Conviction for failure to have such insignia properly displayed for each coin-operated amusement device or coin-operated musical device may result in punishment in accordance with Section 1-2-101 of this Code.
- (V) 8-3-120: OPERATION CONTRARY TO PROVISIONS: Any massage establishment operated, conducted or maintained contrary to the provisions of this Part 1 shall be and the same is hereby declared to be unlawful and a public nuisance and the City Attorney, in addition to all other remedies set forth hereunder, may institute action to revoke the license pursuant to the procedures set forth in this Chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this Part 1.
- (W) 9-2-301: INVESTIGATION, HEARING ON COMPLAINT:
 - A. The Liquor and Beer Licensing Advisory Board, on its own motion or on complaint, shall have the power to recommend that the City Council suspend, revoke or deny renewal of any license issued by the City Council for any violation by the licensee, its agents, servants or employees.
 - B. Such recommendation may be based on a violation of the provisions of C.R.S. 1973, Title 12, Articles 46, 47 and 48, or any of the rules and regulations issued thereunder, or of this Chapter, or any rules and regulations promulgated by the Liquor and Beer Licensing Advisory Board, or any of the terms, conditions or provisions issued by the City Council, provided that an investigation and a public hearing be granted at which the licensee shall be afforded an opportunity to be heard.

Adopting Ordinance (cont.)

- W) C. Prior to any suspension, revocation or denial of renewal of a license, such recommendation shall be reviewed by the City Council as provided in Section 9-2-304; provided, however, the power to summarily suspend a license exists only in the City Council.

(X) 10-7-106: FAILURE TO COMPLY WITH ORDER TO ABATE:

- B. In the event that any order issued pursuant to this Article is not complied with in such reasonable time as is specified therein, the Health Department, after notice to persons of record interest in the property of their agents or tenants therein, may request that the Department of Public Works of the City have removed, corrected or otherwise abated through private contract the condition giving rise to the issuance of the order to abate. The procedures outlined in Chapter 7, Article 1 of this Code for the collection of the cost and expenses thereof shall apply independently and in addition to the penalty provided by this Code for violation of any provision of this Chapter.

10-7-107: LIEN ASSESSMENT: In the event that the owner, occupant or agent of the owner shall fail within thirty (30) days after billing to pay the cost and expenses for the removal, correction or other abatement of the condition giving rise to the issuance of the order to abate, a lien may be assessed against the property for such costs in accordance with Chapter 7, Article 1 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes.

(Y) 11-1-107: VICIOUS ANIMALS:

- A. It shall be unlawful for any person to own or keep any dangerous, fierce or vicious animal. Such animal is hereby declared a nuisance and may be taken up and impounded or confined, as provided in this Chapter; provided, however, that if any dangerous, fierce or vicious animal found running at large cannot safely be taken up and impounded, such animal may be killed by any peace officer. Upon conviction of any person for a violation of this Section, the judge may order that such animal be destroyed. For purposes of this Section, a dangerous, fierce or vicious animal is defined to be any animal that attacks or bites a person or animal anywhere in the City other than upon the property of the owner or keeper.
- B. It shall be the duty of the owner or keeper of any dangerous, fierce or vicious hoofed animal to prevent such hoofed animal from trespassing or running at large. In the event that any dangerous, fierce or vicious hoofed animal is found trespassing or running at large, the owner or keeper of such hoofed animal shall be deemed guilty of a violation of this Section. Such hoofed animal is hereby declared a nuisance and may be taken up and impounded or confined, as provided in Article 4 of this Chapter. Upon conviction of any person for violation of this Section, the judge may order that such hoofed animal be destroyed. For purposes of this Section, a dangerous, fierce or vicious hoofed

Adopting Ordinance (cont.)

- Y) B) animal is defined to be any hoofed animal that attacks, bites or gores a person or animal upon the streets, sidewalks or any public or private place in this City.
- (Z) 11-1-114: NOISY PETS OR ANIMALS PROHIBITED:
 - A. It shall be unlawful for any person to own or keep any pet or hoofed animal which by barking, howling, baying, yelping, crowing, crying or other utterance disturbs the peace and quiet of the neighborhood and such pet or hoofed animal is hereby declared to be a public nuisance.
 - B. Upon a second conviction entered and in addition to any other penalties that may be imposed, the Court may order the owner or keeper of such pet to abate such nuisance within five (5) days. Failure to abate such nuisance within five (5) days shall be deemed a separate offense under this Section.
 - C. For the purposes of this Section, "neighborhood" means the area within five hundred feet (500') of the exterior boundaries of the premises where the pet resides; "disturb" means to unreasonably annoy, perturb or interfere with the quiet enjoyment of another's premises.
- (AA) 12-2-503: UNAUTHORIZED CONNECTION; RECOVERY OF USER CHARGES: In addition to other penalties set out in this Chapter, estimated user charges may be recovered by the Department from any person who connects any wire, cord, socket, motor or other instrument, device or contrivance to the electric supply system or any part thereof on the supply side of the meter without the written consent of the Manager of Transmission and Distribution.
- (BB) 12-2-704: TAMPERING OR BY-PASSING; ADDITIONAL PENALTIES: In addition to any other penalties that may be imposed, the Court may order any person who is found guilty of violating the provisions of Section 12-2-702 or Section 12-2-703 to pay as restitution estimated user charges for the period during which such violation existed and reasonable costs of investigation incurred by the Division.
- (CC) 12-2-706: TAMPERING OR BY-PASSING; GROUNDS FOR DISCONTINUANCE: Tampering with or by-passing of a meter at any premises shall constitute sufficient grounds for disconnection from the electric supply system of the City or other discontinuance of service without notice to the owner or occupant of such premises, and service shall not be resumed until any and all deficiencies in the wiring, connections, meters and/or electrical facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all ordinances, rules and regulations of the City.
- (DD) 12-2-707: TAMPERING OR BY-PASSING; LIABILITY FOR ESTIMATED USER CHARGES: In addition to other penalties set out in this Chapter, the owner or occupant of the premises where tampering with or by-passing of a meter has occurred shall be liable for estimated user charges and for reasonable costs of investigation incurred by the Division.

Adopting Ordinance (cont.)

- (EE) 12-3-503: UNAUTHORIZED CONNECTION; RECOVERY OF USER CHARGES: In addition to other penalties set out in this Chapter, estimated user charges may be recovered by the Department from any person who connects any line, pipe, hose or other instrument, device or contrivance to the gas distribution system or any part thereof without the written consent of the Manager.
- (FF) 12-3-605: TAMPERING OR BY-PASSING; ADDITIONAL PENALTIES: In addition to any other penalties that may be imposed, the Court may order any person who is found guilty of violating the provisions of Sections 9-3-603 or Section 9-3-604 to pay as restitution estimated user charges for the period during which such violation existed and reasonable costs of investigation incurred by the Division.
- (GG) 12-3-607: TAMPERING OR BY-PASSING; GROUNDS FOR DISCONTINUANCE: Tampering with, adjusting or altering a regulator or tampering with or by-passing of a meter or related equipment at any premises shall constitute sufficient grounds for disconnection from the gas distribution system of the City or other discontinuance of service without notice to the owner or occupant of such premises, and service shall not be resumed until any and all deficiencies in the piping, connections, meters and/or other natural gas facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all ordinances, rules and regulations of the City.
- (HH) 12-3-608: TAMPERING OR BY-PASSING; LIABILITY FOR ESTIMATED USER CHARGES: In addition to other penalties set out in this Chapter, the owner or occupant of the premises where tampering with or by-passing of a meter has occurred shall be liable for estimated user charges and for reasonable costs of investigation incurred by the Division.
- (II) 12-4-516: DISCONNECTION:
- E. 1. In the event that a previously used service line is not used for a continuous period of one year or more, the Department of Utilities may, at the customer's expense, shut off such service line at the corporation stopcock; provided, however, the shut off may be delayed if the customer states in writing that the service line will be in regular use within a specific time agreed to by the Department. If a customer shall fail or refuse to pay the cost of such shut off within thirty (30) days after billing, then in addition to any other remedies that may be available to the Department, such cost may be assessed against the property formerly served in the same manner as development charges may be assessed against the property.
2. In the event that a previously used service line is not used for a continuous period of five (5) years or more, such service line shall be deemed to be abandoned, unless a letter of agreement is entered into between the customer and the Department. When a service line is deemed to be abandoned, there shall be no further obligation on the

Adopting Ordinance (cont.)

- (II) E,2) Department to provide water to that service line. The obligation to serve shall not again arise except upon reapplication in accordance with all ordinances then applicable and the payment of all fees due at the time of the reapplication.
- (JJ) 12-4-807: BY-PASSING OR TAMPERING; ADDITIONAL PENALTIES: In addition to any other penalties that may be imposed, the Court may order any person who is found guilty of violating the provisions of Section 12-4-806 or Section 12-4-807 to pay as restitution estimated user charges for the period during which such violation existed and reasonable costs of investigation incurred by the Division.
- (KK) 12-4-809: TAMPERING OR BY-PASSING; GROUNDS FOR DISCONTINUANCE: Tampering with or by-passing of a meter at any premises shall constitute sufficient grounds for disconnection from the water supply system of the City or other discontinuance of service without notice to the owner or occupant of such premises, and service shall not be resumed until any and all deficiencies in the piping, connections, meters and/or other water facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all ordinances, rules and regulations of the City.
- (LL) 12-4-810: TAMPERING OR BY-PASSING; LIABILITY FOR ESTIMATED USER CHARGES: In addition to other penalties set out in this Chapter, the owner or occupant of the premises where tampering with or by-passing of a meter has occurred shall be liable for estimated user charges and for reasonable costs of investigation incurred by the Division.
- (MM) 12-5-1110: DISPOSAL PERMIT; REVOCATION:
 - A. All septic tank pumpings disposal permits issued to any person may be revoked upon a finding by the Manager that any of the following conditions exist:
 - 1. Such person has failed to pay septic tank pumpings disposal charges within sixty (60) days after such charges were due and payable;
 - 2. Such person or representative thereof has improperly used and/or maintained the disposal facilities of the City in violation of guidelines established by the Manager;
 - 3. Such person or representative thereof failed to display a permit upon request by a representative or employee of the Division;
 - 4. Such person or representative thereof has changed, altered or otherwise modified the face of a permit without the permission of the Manager;

Adopting Ordinance (cont.)

MM) A) 5. Such person or representative thereof has violated any condition of the permit.

(NN) 12-5-1202: SHOW-CAUSE HEARING:

D. Upon review of the evidence by the Director, the Director shall make written findings of fact. Thereupon the Director may:

2. Issue an order stating that an unauthorized discharge has occurred and directing that, following a specified time period, the wastewater treatment service of the offending party be discontinued unless:

a. Adequate treatment facilities, devices or other appurtenances shall have been installed, or

b. Existing treatment facilities, devices or other appurtenances are properly operated or maintained; or

3. Issue such other or further orders and directives as are necessary and appropriate.

(OO) 14-17-101: ENFORCING OFFICIALS; RIGHT OF ENTRY; STOP ORDERS:

C. Stop Orders. Whenever any activity is being done contrary to the provisions of this Chapter, the Zoning Inspector may order the work stopped by notice in writing served on any person engaged in such activity, and any such person shall forthwith stop such activity until authorized by the Zoning Inspector to proceed with the activity.

(PP) 14-17-106: PENALTY FOR VIOLATION OF CHAPTER: Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Chapter shall be punished as provided in Section 1-2-101 of this Code. Each day that a violation of this Chapter continues to exist shall be considered a separate offense.

(QQ) 14-17-108: PUBLIC NUISANCE:

A. The City Council of the City recognizes that the violation of any part of this Chapter is a condition contrary to public health, safety and welfare, and is subject to be declared a nuisance. Such nuisances shall be abated by the responsible City departments through use of the provisions found within this Chapter.

(RR) 16-1-106: VIOLATIONS: Any person violating the Building Code or any provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than three hundred dollars (\$300.00), or imprisoned not more than ninety (90) days in the City jail, or both. A separate offense shall be deemed committed for each and every day during which such illegal erection, construction, reconstruction, alteration,

Adopting Ordinance (cont.)

- RR) maintenance or use continues. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or remodeled, used or maintained in violation of this Chapter or of any provision of the Building Code, the City Attorney or any owner of real estate within the area, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus or abatement to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, remodeling, maintenance or use.
- (SS) 16-1-306: STOP ORDERS: Whenever any work is being done contrary to the provisions of this Code, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.
- (TT) 16-1-307: OCCUPANCY VIOLATIONS: Whenever any structure is being used contrary to the provisions of this Code, the Building Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of this Code; provided, however, that in the event of an unsafe building Article 5 of this Chapter shall apply.
- (UU) 16-3-109: EXPIRATION OF PERMITS: Every permit issued by the Building Official under the provisions of this Code shall automatically become null and void if the building or work authorized by such permit is not commenced within sixty (60) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of sixty (60) days. Before work can be recommenced a new permit shall be first obtained, and the fee therefor shall be one-half ($\frac{1}{2}$) the amount required for a new permit; provided, no changes have been made or will be made in the original drawings and specifications and provided, further, that suspension or abandonment has not exceeded one year.
- (VV) 16-3-110: SUSPENSION OR REVOCATION OF PERMIT: The Building Official may, in writing, suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any provisions of the Building Code.
- (WW) 16-3-212: OTHER FEES:
- B. Investigation Fee; Work Without a Permit:
1. Investigation. Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

Adopting Ordinance (cont.)

WW) B) 2. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this Code if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from any penalty prescribed by law.

D. Reinspection Fees: A reinspection fee of \$15.00 shall be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

(XX) 16-3-213: FEE REFUNDS:

B. The Building Official may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code.

C. The Building Official may authorize the refunding of not more than eighty percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

(YY) 16-3-214: EXPIRATION OF PLAN REVIEW: Applications for which no permit is issued within one hundred eighty (180) days following the date of application shall expire and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

Adopting Ordinance (cont.)

- (ZZ) 16-4-103: WORK COVERED BEFORE INSPECTION: Whenever any work is covered or concealed by additional work without first having been inspected as required, the Regional Building Department may order, by written notice, that such work be exposed for examination.
- (AAA) 16-5-201: PUBLIC NUISANCE DECLARED: All buildings or portions thereof which are determined, after inspection by the Building Official, to be dangerous as defined in Section 16-5-107 are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this Chapter.
- (BBB) 16-5-404: PERSONAL OBLIGATION OR SPECIAL ASSESSMENT: The City Council may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.
- A. Personal Obligation. If the City Council orders that the charge shall be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the City by use of all appropriate legal remedies.
 - B. Special Assessment. If the City Council orders that the charge shall be assessed against the property it shall confirm the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property, and shall be collected in the same manner as other special assessments of the City.
- (CCC) 16-6-110: REVOCATION OR SUSPENSION OF LICENSE:
- B. The Board of Review, after review of the evidence presented, shall have the power to suspend or revoke said contractor's license; and to suspend or revoke the contractor's right to act as an examinee for any other licensed contractor, and shall have the power to suspend or revoke the right of the examinee to be an examinee for any other partnership, joint venture or corporation if, in the opinion of three (3) of the five (5) Board members, the evidence supports a finding that the contractor and/or its examinee, committed one or more of the following or omissions:
- (DDD) 16-6-307: REVOCATION OF LICENSE: Any license issued pursuant to this Section (concrete contractors) may be revoked under the provisions of Part 8 of Article 1 of Chapter 8 of this Code.
- (EEE) 16-6-607: REVOCATION OF LICENSE:
- A. The Board of Review may revoke or suspend licenses issued pursuant to the foregoing provisions for mechanics' licenses when in the opinion of three (3) of the five (5) Board of Review Members there is evidence sufficient to establish one of the following violations by said licensee:

Adopting Ordinance (cont.)

EEE) B. In the event a license has expired for a period of more than thirty (30) days, then a new examination will be required.

(FFF) 16-7-103: ENFORCEMENT AND ADOPTION OF REGULATIONS: In order to carry out the provisions of this Article, the Building Official is authorized to issue to any party responsible for the operation of a swimming pool not in compliance with this Article, an order to abate the nuisance involved. Such order shall be served in writing upon the party responsible for the operation of the swimming pool, and shall require him to abate the nuisance within a reasonable time as specified in the notice. Should the Building Official determine that the operation of the swimming pool is an imminent threat to the welfare and safety of the citizens of the City, he may order the swimming pool to be drained immediately. Should the person responsible for the operation of the swimming pool not comply with such an order, the Building Official shall cause the nuisance to be abated, and the expense of such abatement shall be collected from the person who created, continued, or suffered such a nuisance to exist. Any party responsible for the operation of a swimming pool not in compliance with this Article, or who fails to obey an order of the Building Official to abate the nuisance involved, or who refuses to permit the Building Official to abate the nuisance involved, or who refuses to permit the Building Official or his authorized representative to inspect the swimming pool, shall be guilty of a misdemeanor.

(GGG) 17-1-602: ABATEMENT, VACATION OF PREMISES:

A. Any dwelling or dwelling unit which shall be found to be in a condition which violates any provision or provisions of this Article to such an extent as to endanger the life, limb, health, safety or welfare of the public or any occupant, shall be deemed and declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

B. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the enforcement officer, shall be vacated within the time specified by the notice.

(HHH) 18-2-206: UNATTENDED BOATS; IMPOUNDMENT: It shall be unlawful for any person to leave unattended any boat on any waters of any park. Any boat found loose or unattended shall be impounded and released upon payment of a fee of fifty dollars (\$50.00) to cover the cost of impounding, hauling and storage.

(III) 18-3-111: Revocation of Permit: The Director shall have the authority to revoke a temporary permit upon finding of a violation of any rule, regulation or ordinance, or upon good cause shown. Any temporary park permit granted shall be revocable by the City Council at its pleasure in accordance with Section 72 of the Charter of the City.

Adopting Ordinance (cont.)

- (JJJ) 18-4-108: REMOVAL OF DEAD TREES: It shall be the duty of the Director to require the owner or agent of any premises whereon are situated any dead trees or overhanging boughs dangerous to life, limb or property to remove the same within a reasonable time. In the event the owner or agent fails to follow the requirements of the notice, then it shall be the duty of the Director to remove or destroy the trees or boughs or otherwise correct the offending condition at the expense of the owner or agent, and in the event the owner or agent fails to pay the expense, the City shall recover its cost by suit or assessment under Section 18-4-204 et seq. of this Chapter.
- (KKK) 19-2-216: REVOCATION OF PERMITS: Any revocable permit may be revoked by the City Council at its pleasure in accordance with Section 72 of the City Charter. The City Manager is hereby authorized to revoke any revocable permit if such action is deemed by him to be necessary to protect the public safety, necessity or convenience in the use of public property. He shall give notice in writing to the permittee at least fourteen (14) days before the effective date of revocation in order to allow permittee to appeal to City Council in accordance with Section 19-2-217 of this Part 2. Such notice requirement shall not limit the power of the City Manager to summarily revoke any revocable permit if there is a present existing or imminent danger to the public health, safety or welfare.
- (LLL) 19-6-205: PENALTY: The remedy provided in this Part 2 is cumulative and the fact that an assessment has been made as herein provided shall not prevent the owner, occupant, agent or lessee from being prosecuted for a violation of the ordinances of the City. In the event of conviction a penalty as provided by Article 2 of Chapter 1 of this Code may be imposed upon any person found guilty of violating the provisions of any other ordinance of the City relating to the removal of snow from sidewalks the same as if said assessment had not been made or paid.
- (MMM) 19-7-606: SIDEWALK IMPROVEMENTS:
- B.In case of failure to pay such assessment within thirty (30) days after the issuance of the certificate the same may be certified by the City Clerk to the County Treasurer to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty thereon to defray the cost of collection. All the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and their redemption of the same, shall apply and have as full effect for the collection of the assessment for sidewalks as for general taxes.
- (NNN) 19-7-707: FAILURE TO PAY INSTALLMENT WHEN DUE, PENALTIES, REINSTATEMENT: Failure to pay any installment, whether principal or interest, when due shall cause the whole amount of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one percent (1%) per month or fraction of a month until the day of sale as hereafter provided (not exceeding, however, at any time a total interest amount due of

Adopting Ordinance (cont.)

- NNN) thirty percent [30%] of the principal amount of the assessment), plus two percent (2%) additional on unpaid principal and accrued interest as penalties, plus costs of collection. At any time prior to the day of sale, the owner may pay the amount of delinquent installments with accrued interest at one percent (1%) per month, or fraction of a month as aforesaid, and all penalties and costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been made.
- (OOO) 19-7-710: COUNTY TREASURER TO RECEIVE INSTALLMENT PAYMENTS: The County Treasurer shall receive payment of all assessments appearing upon the assessment roll with interest and in case of default in the payment of any installment or principal or interest when due, shall advertise and sell any and all property concerning which such default is suffered, for the payment of the whole or the unpaid assessment thereon. The advertisements and sale shall be made at the same time in the same manner, under the same conditions and penalties, and with the same effects as are provided by general law for sale of real estate in default of payment of general taxes.
- (PPP) 20-3-107: NOTICE OF PERMIT REVOCATION: A [police and fire alarm] permit issued under this Article shall be revocable at any time by the City either with or without existence or statement of any grounds therefor, and such revocation may be effected by the City Manager.
- (QQQ) 21-1-110: PENALTIES: Whenever in this Chapter [Public Offenses] any act is prohibited or is made or declared to be unlawful, an offense, violation or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense, violation, or misdemeanor, any person who shall be convicted of the violation of any such provisions of this Chapter shall be punished as provided in Section 1-2-101 of this Code.
- (RRR) 21-5-103: SEIZURE OF GAMBLING DEVICES, PROCEEDS: All gambling devices, instruments and things used for the purpose of gambling, as well as gambling proceeds are hereby declared to be contraband and shall be subject to seizure by any peace officer, and may be confiscated and destroyed by order of any judge of the Municipal Court. All gambling proceeds shall be forfeited to the City and transferred by Court order to the General Fund of the City.
- (SSS) 21-6-306: FAILURE OF OWNER TO COMPLY: In the event of the failure of the owner or holder of said real property within the City to cut and destroy said weeds or have the same cut and destroyed or remove said rubbish and other debris in compliance with the foregoing provisions of this Section, the City Manager is authorized to have said weeds cut, removed and destroyed, and the cost of such cutting and removal or destruction plus a surcharge not to exceed twenty five percent (25%) for administrative costs shall be charged against the property or the owner thereof.
- (TTT) 21-6-307: LEGAL PROCEEDINGS TO FORCE COMPLIANCE: In addition to the other penalties provided by this Part 3, the City may institute appropriate proceedings in any court of competent jurisdiction to compel owners of real

Adopting Ordinance (cont.)

property within the City to comply with the provisions of this Section.

In the event the owner, occupant or agent of the owner shall fail within thirty (30) days after billing to pay the costs of cutting, destroying and removing the weeds, plus a surcharge not to exceed twenty five percent (25%) of the cost of such work to defray the cost for administration, a lien may be assessed against the property for such costs in accordance with Chapter 7, Article 1, Part 1 of this Code. The liens created hereby shall be superior and prior to other liens regardless of date, except liens for general and special taxes.

(UUU) 21-6-308: PENALTY: Every person convicted of a violation of any provision set forth in this Part 3 shall be punished in accordance with Section 1-2-101 of this Code. For each and every day during which such violation shall occur or continue to occur, a separate offense shall be deemed to have been committed.

(VVV) 21-7-107: FORFEITURE AND DISPOSITION:

A. Forfeiture. Any dangerous or deadly weapon, as defined by Section 21-7-101 of this Part 1, used or possessed in violation of Sections 21-7-102 through 21-7-106 hereof, is hereby declared to be contraband and shall be forfeited to the City upon a conviction resulting from such use or possession.

(WWW) 21-8-205: MOTORCYCLES AND OFF-HIGHWAY MOTOR VEHICLES:

F. Penalty. Every person convicted of a violation of this Section shall be punished by a fine not to exceed three hundred dollars (\$300.00) for each offense, but shall not be subject to imprisonment or jail sentence.

(XXX) 22-16-110: IMPOUNDING OR IMMOBILIZATION OF IMPROPERLY PARKED VEHICLES:

A. In addition to all other penalties provided in this Code, any automobile parked in violation of any provision of this Article may be immobilized or impounded as provided by Article 25 of this Chapter.

B. Any vehicle in excess of the allowable height, length or load capacity found parked in any City parking lot or structure shall be impounded forthwith and removed from such parking lot or structure, and all costs of towing and impoundment shall be paid by the owner or driver thereof before the same shall be released.

(YYY) 22-19-122: IMPOUNDING BICYCLES: Members of the Police Department are hereby authorized to remove a bicycle from any street, alley, highway, sidewalk, bridge, viaduct, tunnel, path or other public place or way, to the bicycle pound or to any lot or place maintained by the City or said Department for the storage of impounded bicycles, or to any other place of safety under any of the circumstances hereinafter enumerated:

Adopting Ordinance (cont.)

- YYY) A. When such bicycle is not licensed according to the provisions of this Chapter, or when the license plate is not attached to the frame of such bicycle as required by Section 22-19-105 of this Chapter.
- B. When such bicycle is not in safe mechanical condition.
- C. When such bicycle is not equipped as required by Section 22-19-119 of this Chapter.
- D. When such bicycle is operated by any person under the age of sixteen (16) years in violation of any ordinance of the City relating to traffic or in violation of any of the provisions of this Chapter.

(ZZZ) 22-19-126: SUSPENSION OR REVOCATION OF LICENSES: Any bicycle ridden or operated in violation of any of the provisions of this Chapter or of any applicable ordinance of the City of Colorado Springs relating to traffic, shall be deemed and considered an offending instrumentality employed to accomplish a violation of law, and the City Clerk may revoke the license of or for such bicycle or suspend the same for such period of time as in his discretion he shall deem proper.

(AAAA)22-25-101: AUTHORITY TO IMPOUND VEHICLES: Members of the Police Department are hereby authorized to remove, or have removed at their direction, any vehicle from any public or private way or place, under any of the circumstances hereinafter enumerated, the City Council hereby finding and determining that such vehicles under such circumstances are public nuisances. Any vehicle removed under the provisions of this Section may be taken to the City garage, to any lot maintained by the City, to the Police Department for the storage of impounded vehicles, or to any other place designated by the Police Department, or under contract with the City, for the storage and maintenance of such impounded vehicles.

(BBBB)22-25-106: SALE OF UNCLAIMED VEHICLES, PROCEEDS: Whenever, pursuant to the terms of this Chapter, a vehicle has been stored in the City garage or any other lot so maintained for the storage of impounded vehicles for a period of thirty (30) days and no claim of ownership or the right to possession thereof has been made, and whenever such claim has been made but not established to the satisfaction of the City Manager within such thirty (30) days, and no suit or action to determine the same has been instituted and is pending, the City Manager or his designated representative may sell such vehicle.

(CCCC)22-1-103: PENALTIES:

- A. It is a misdemeanor for any person to violate any of the provisions of this Chapter.
- B. Every person convicted of the violation of any provision stated or adopted in this Chapter shall be punished as provided in Section 1-2-101 of this Code; except that any person convicted of a violation of

Adopting Ordinance (cont.)

- CCCC) B) any provision under Articles 11, 12, 13, 14 or 15 and Sections 22-16-104 and 22-16-105 of this Chapter shall be subject only to a fine in accordance with the schedule of fines established by the Presiding Judge of the Municipal Court pursuant to Section 22-1-103C below, or in accordance with an appropriate order of a Judge or referee of the Municipal Court.
- C. The Presiding Judge shall designate the specified offenses under this Chapter for which payments of fines may be accepted by the Violations Bureau and those parking violations for which penalty assessments notices may be issued, and shall specify by suitable schedules the amount of such fines for first, second and subsequent offenses and shall further specify which and what number of offenses shall require appearance before the Court. He shall also designate costs to be assessed for late payment of penalty assessment notices.

Section 12. All ordinances of a general and permanent nature finally passed and approved by the City Council after September 23, 1980, but on or before the effective date of this ordinance shall be incorporated in the proper place in the Code, but nothing in such inclusion, or this authorization therefor, shall be construed as suspending the time such legislation takes effect; but such legislation shall become effective in the same manner as other ordinances.

Section 13. That the repeal of any ordinance or any portion thereof as provided in Section 5 of this ordinance shall not affect or impair nor be applicable to:

(1) Any act done or right vested or accrued or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every act done, or right vested or accrued, or proceeding, suit or prosecution had or commenced shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed remained in force. No offense committed and no liability, penalty or forfeiture, civilly or criminally incurred, prior to the time when any such ordinance or part thereof shall be repealed or in any way altered by the provisions of this ordinance or the Code of the City of Colorado Springs, 1980, shall be discharged or affected by such repeal or alteration; but, prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered;

(2) Any general or special ordinance, resolution or motion heretofore passed, adopted and made validating, ratifying or legalizing the acts or omissions of any officer or validating any ordinance, act or proceedings whatever; but all validating or legalizing acts of and by the City Council whatsoever and now in force are hereby continued in force;

(3) Any ordinance relating to the public debt or the public credit or any annexation of territory;

Adopting Ordinance (cont.)

- (4) Any ordinance relating to a contract to which the City of Colorado Springs, Colorado is a party or to any contract made for its benefit;
- (5) Any ordinance, resolution or motion making appropriation of public funds;
- (6) Any ordinance levying a special benefit assessment or creating a lien and debt against any property situate within the City of Colorado Springs, Colorado and improved by the opening, widening, extension or paving of any street or public thoroughfare within the said City of Colorado Springs and/or the installation of gutters, curbs, curbwalks or sidewalks along said streets or thoroughfares;
- (7) Any ordinance or resolution granting any license, right or revocable permit to any person, firm or corporation, which license, right or revocable permit was legally in force and effect on the date of the effective date of the code of the City of Colorado Springs, 1980; it being the express intent and purpose of the City Council of the City of Colorado Springs that every such license, right or revocable permit shall expire as originally provided by the ordinance or resolution granting the same unless sooner terminated by the Council, or an authorized officer of the City, acting under and pursuant to the Code or other ordinances and Charter of the City of Colorado Springs;
- (8) Any ordinance or resolution promising or guaranteeing the payment of money by the City or authorizing the issuance and sale of General Obligation or Revenue Bonds by the City;
- (9) Any administrative ordinance or resolution of the City Council not in conflict or inconsistent with the provisions of the Code of the City of Colorado Springs;
- (10) Any ordinance providing for and making the annual tax levy in and for the City of Colorado Springs, Colorado;
- (11) Any ordinance or resolution establishing fees for the issuance of special licenses and permits and for the rendering of special services and inspections;
- (12) Any ordinance or resolution establishing the amount of bond to be posted by City officials;
- (13) Any ordinance or resolution relating to the salaries of City officers or employees;
- (14) Any ordinance, resolution or motion annexing territory to the City; or, any ordinance or ordinances establishing land use zoning districts in the City, regulating the use of land and the use, bulk, height, area and yard spaces of buildings, adopting a map of zoning districts, providing for the adjustment, enforcement and amendment therefor; or, any ordinance regulating the subdivision of land in the City;

Adopting Ordinance (cont.)

(15) Any ordinance, resolution or motion naming, renaming, opening, accepting or vacating streets, alleys or rights of way in the City;

or any ordinance amending the same.

Section 14. That the Code of the City of Colorado Springs, 1980, or any Chapter or Section thereof may be proved by a copy thereof, certified by the City Clerk of the City of Colorado Springs, under the Seal of the City; or when printed in book or pamphlet form and purporting to be printed by authority of the City, the same shall be received in evidence in all courts without further proof of the existence and regularity of the enactments of any particular ordinance and of said Code.

Section 15. That pursuant to and in compliance with Section 31-16-203, Colorado Revised Statutes 1973, as amended, a public hearing is scheduled to be held in the Council Chambers, City Hall, of the City of Colorado Springs, El Paso County, Colorado at 9:30 o'clock A.M. on December 23, 1980, or as soon thereafter as the business of the City Council will permit. Prior publication of such notice once at least fifteen (15) days preceding December 23, 1980 and once at least eight (8) days preceding December 23, 1980 in the official newspaper of the City of Colorado Springs is hereby confirmed and ratified in all respects as though authorized prior to such publication.

Section 16. (1) At regular intervals following the effective date of the Code of the City of Colorado Springs, 1980, all ordinances of a general and permanent nature passed and approved during the prescribed time period shall be revised, arranged and prepared for publication in the form of looseleaf supplements, reprinting the page or pages of the Code affected, removing the amended or obsolete provisions and inserting the new provisions.

(2) Any and all additions or amendments to the Code, when passed in such form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated in the Code so that reference to the "Code of the City of Colorado Springs, 1980" shall be understood and intended to include such additions and amendments.

(3) In case of the amendment of any section of the Code for which a penalty is not provided, the general penalty as provided in Section 1-2-101 of such Code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 17. A copy of such Code shall be kept on file in the office of the City Clerk, preserved in looseleaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk or someone authorized by him, to insert in their designated places all amendments or ordinances which indicate the intention of the City Council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be from time to time repealed by the City Council. This copy of

Adopting Ordinance (cont.)

such Code shall be available for all persons desiring to examine the same and shall be considered the official Code of the City of Colorado Springs, 1980.

Section 18. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the ordinances of the City of Colorado Springs to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in Section 1-2-101 of the Code of the City of Colorado Springs, 1980.

Section 19. This ordinance shall be in full force and effect from and after its passage and publication as provided by Charter.

Introduced, read, passed on first reading and ordered published this 9th day of December, 1980.

Robert M. Isaac
Mayor

ATTEST:

R. E. Parker
City Clerk

I, R. E. Parker, City Clerk of the City of Colorado Springs, Colorado, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 80-411, finally passed by the City Council of the City of Colorado Springs the 23rd day of December, 1980, the original of which is in my custody.

Dated at Colorado Springs, Colorado, this 6th day of January, 1981.

City Clerk

CHARTER

HISTORICAL NOTE

On May 11, 1909 Colorado Springs electors, pursuant to the home rule provisions of Article XX of the State Constitution, adopted the Charter of the City of Colorado Springs. The original Charter created a commission form of government for the City. The legislative functions were vested in a Council consisting of the mayor and four at-large councilmen. The mayor was granted a salary of \$3,600 per annum, and each councilman was granted a salary of \$2,000 per annum. The executive and administrative functions were vested in five departments: Water and Water Works, Finance, Public Safety, Public Works and Property, and Public Health and Sanitation. The mayor was designated as Commissioner of the Department of Water and Water Works, and the Council was required to designate one councilman to be commissioner of each of the other departments. This latter provision was amended on April 1, 1913 to provide for the selection at general elections of councilmen as commissioners.

The Charter provided that the mayor was to be the chief executive officer of the City. Upon the recommendation of the commissioner of the appropriate department, the mayor appointed the heads of such department and all other employees of the City. The mayor was further empowered to suspend or remove any officer or employee when in his judgment the public interest so demanded. The Charter allowed the mayor to veto any or every item contained in appropriation ordinances, but such veto could be overridden by vote of four members of the Council (in effect, the entire Council exclusive of the mayor).

The Charter was substantially amended on July 6, 1920 to provide for a council-manager form of government in lieu of the previous commission form. The amended Charter provided for nine councilmen, to be elected at large for staggered six-year terms. Council was required to elect biennially one of its members as president and another as vice-president. The president was required to preside at Council meetings and had a voice and vote therein but no veto. He could use the title of mayor but had little power except in times of public emergency. All members of Council were required to serve without compensation.

The 1920 amendment created the office of City Manager, who was to be employed by the Council as the executive head of the City. The amendment granted to the Manager broad powers and duties, including the right to exercise the power and authority of the commissioner or head of any of the five departments originally created in 1909. Thus, the Manager rather than individual Council members performed the functions of commissioner of the various departments, as such functions were prescribed by other, unamended portions of the Charter. Finally, the 1920 amendment also granted to discharged City police and fire department employees the right to a hearing before the Civil Service Commission.

At a special election held on January 24, 1922 the Charter was amended to provide for the submission of the question of issuing bonds to a vote of the qualified taxpaying electors. However, in *Pike v. School District No. 11 in El Paso County*, 172 Colo. 413, 474 P.2d 162 (1970), the Colorado Supreme Court ruled that a state statute limiting the right to vote to taxpaying electors was unconstitutional. The Charter

provision was therefore amended in 1977 to delete the requirement that an elector in bond issue elections must have paid a property tax within the City. See also, *Karok v. City and County of Denver*, 176 Colo. 406, 490 P.2d 936 (1971).

The Charter was further amended on April 5, 1927. This amendment expanded the election provisions of the Charter, and it included a provision for the registration of electors for municipal elections at the office of the City Clerk.

The Department of Public Utilities was created by an amendment to the Charter approved by Colorado Springs electors on April 4, 1939. The amendment provided for the manner of handling the funds and accounts of that department. On April 1, 1947 the Charter was amended to replace the Park Commission with a Department of Parks and Recreation, to be subject to control of the Council. An amendment allowing the formation of a combined City-County Health Department was approved on April 5, 1949. On April 3, 1951 a definition of "taxpaying electors" and "city taxes" was added, and on April 5, 1959, a provision defining the term "qualified electors" was inserted. Amendments to the Charter which were approved on April 4, 1961 included an expansion to the provisions concerning vacancy of the offices of elected officials; a provision allowing the City to take up the last one-fifth of public improvement district bonds; and a section allowing the 1947 Public Library Law to govern public libraries in the City. On April 2, 1963, the Charter was again amended to allow Council to prescribe the method for registration of electors and authorizing the use of voting machines. The limitation on the City's indebtedness was increased from three percent to ten percent on April 6, 1965. The Charter was further amended on April 4, 1967 to allow recreational use of a portion of the City's Northfield and North Slope watersheds.

In April of 1969 Colorado Springs electors approved two amendments to the Charter relating to the election of Council members. First, the term of Council members was reduced from six years to four years. Secondly, provision was made for the election of four district councilmen and five at-large councilmen, thereby eliminating the former section which provided that all nine Council members were to be elected at large.

On April 1, 1975 the Charter was amended to provide for the popular election of the mayor. Thus, Council would consist of four at-large councilmen, four district councilmen, and a popularly elected mayor. Another amendment adopted in 1975 expanded the vacancy and forfeiture provisions relating to the mayor, vice-mayor and Council members. Also, a section was added to the Charter providing for the City's joint cooperation with other governmental units and for its participation with the private sector in the development of energy or water resources.

On April 5, 1977 the Charter was amended by adding a so-called "safe seat" provision, which requires any elected officer running for an elective City office other than that currently held by him to give a notice of intent to so run at least sixty days prior to the next election. Once the notice of intent is given and not withdrawn at least sixty-one days prior to the election, the office currently held is automatically vacated on the third Tuesday in April following said election.

The five administrative departments originally created by the 1909 Charter were abolished. The 1977 amendment provided instead that Council by ordinance may establish departments, divisions, offices or agencies and prescribe the functions thereof, other than those already provided for in the Charter. Another amendment to the Charter adopted in 1977 abolished the Police Court and created a Municipal Court, the practice and procedure of which is to be as set forth by Colorado law, Colorado Supreme Court rules and City ordinances.

Section 4 of the Charter provides that no person shall be eligible to the office of mayor or councilman unless he has been a citizen of Colorado Springs for at least five years immediately preceding the election. This five-year residency requirement was expressly found unconstitutional. *Bird v. City of Colorado Springs*, 181 Colo. 141, 506 P.2d 1099 (1973). The Colorado Supreme Court has upheld the constitutionality of a one-year residency requirement. *Cowan v. City of Aspen*, 181 Colo. 386, 509 P.2d 1269 (1973). However, the electors at the April 5, 1977 election turned down a proposed Charter amendment which would have reduced the five-year requirement to one year. Thus, the five-year residency requirement, though invalid, remains in the Charter. The Colorado Municipal Election Code of 1965, § 31-10-101 et seq., C.R.S. 1973, as amended, provides that every qualified elector may hold office in any municipality if he has resided therein for at least twelve consecutive months immediately preceding his election. Section 31-10-301, C.R.S. 1973, as amended. The Colorado Constitution provides that the statutes of the State of Colorado shall apply to home rule cities unless superseded by charter or ordinance. Colo. Const. Art. XX, § 6. Since the existing Colorado Springs Charter provision providing for a five-year residency requirement is invalid, no such supersession of the State one-year residency statute exists. Therefore, presumably the one-year residency provision contained in the Colorado Municipal Election Code applies to candidates for municipal office in Colorado Springs. This view is bolstered by language contained in the *Cowan* case, supra, which indicates that any municipality would encounter great difficulty in justifying a residency requirement in excess of that set forth in the Municipal Election Code.

On April 3, 1979, several amendments to the Charter were approved by Colorado Springs electors. Included in the amendments was a substantial revision of the Charter's election provisions. Sections relating to registration, form of ballots and the like were deleted, and a provision was substituted enabling council to regulate these matters by ordinance. Former Section 85(f), which defined a "qualified elector" as an elector qualified to vote in the City and registered to vote, was deleted. A Colorado Supreme Court decision had held that requiring registration as a prerequisite to qualification as an elector violates Colo. Const. Art. V, § 1. *Francis v. Rogers*, 182 Colo. 430, 514 P.2d 311 (1973). See also, *Valdez v. Election Commission of City and County of Denver*, 184 Colo. 384, 521 P.2d 165 (1974); *Benson v. Election Commission*, 62 Colo. 206, 161 P.2d 295 (1916).

Another 1979 amendment to the Charter completely revised the recall, initiative and referendum provisions so as to ensure their compliance with Articles V and XXI of the Colorado Constitution. A Colorado Supreme Court decision had held that the delegation to municipalities of the power to regulate recall elections under Colo. Const. Art. XXI, § 4 was limited to procedural matters and substantive provisions not in conflict with the State Constitution. *Bernzen v. City of Boulder*, 186 Colo. 81, 525 P.2d

416 (1974). See also, *Shroyer v. Sokol*, 191 Colo. 32, 550 P.2d 309 (1976). The 1979 revision to the recall, initiative and referendum provisions is therefore an attempt to comply with applicable provisions of the State Constitution pursuant to the dictates of the Colorado Supreme Court.

The 1979 amendment also added Section 145(a) providing for the removal of striking City employees and requiring all City employees to make an oath declaring that they will not participate in any manner in a strike against the City. In September, 1979, a strike of City employees did occur and because of very strict interpretations placed upon Section 145(a) by an unsympathetic court, it was found as a practical matter that Section 145(a) in its original version was well-nigh unenforceable. Therefore, that section was further amended by Colorado Springs electors on February 19, 1980, which version eliminated most of the procedural requirements used by the court to hamper the City in its efforts to deal with the striking employees.

Another 1980 amendment adopted by the electors provided that division of the City into election districts shall take place at least 120 and not more than 150 days before any City election at which District Councilmen are to be elected; the previous Charter provision had required such districting to take place within 120 days after receipt of the United States decennial census for the City.

The foregoing is merely a review of major amendments to the Charter since its adoption in 1909, and is by no measure comprehensive. Reference must be made to the Charter itself in order to ascertain in detail its contents. In reviewing the Charter it must be remembered that a charter is the organic law of a home rule municipality, and extends to all its local and municipal matters. Colo. Const. Art. XX, § 6. Colorado Springs, as a home rule city, possesses every power possessed by the Colorado legislature as to local and municipal matters, unless restricted by the terms of its Charter. See, *Service Oil Co. v. Rhodus*, 1979 Colo. 335, 500 P.2d 807 (1972); *Veterans of Foreign Wars v. Steamboat Springs*, 195 Colo. 44, 575 P.2d 835 (1978). Thus, the Charter of the City of Colorado Springs is not a grant of powers to the City; rather, it is a limitation on powers given the City under the home rule provisions of the State Constitution.

THE CHARTER OF
THE CITY OF COLORADO SPRINGS

PREAMBLE

We, the people of the City of Colorado Springs, under the authority of the Constitution of the State of Colorado, do ordain and establish this Charter for the City of Colorado Springs.

ARTICLE I¹

NAME, BOUNDARIES, POWERS, RIGHTS AND LIABILITIES

1. *Name--Boundaries* - The municipal corporation now existing and known as the "City of Colorado Springs" shall remain and continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in manner authorized by law. (1909)

2. *Powers--Rights--Liabilities* - (a) By the name of the "City of Colorado Springs," the City shall have perpetual succession, and shall own, possess and hold all property, real and personal theretofore owned, possessed or held by the said City of Colorado Springs, and shall assume, manage and dispose of all trusts in any way connected therewith; (1909)

(b) Shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said City of Colorado Springs; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property; (1909)

(c) May receive bequests, gifts and donations of all kinds of property, in fee simple, or in trust for public, charitable or other purposes; and do all things and acts necessary to carry out the purpose of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or donation; (1909)

(d) Shall have the power within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate, waterworks, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said City and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection therewith, that may exist and which said City may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said City which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes;² (1909)

1. Cf., Colo. Const. Art. XX § 1.

2. *Clough v. City of Colorado Springs*, 70 Colo. 87, 197 P.896 (1921).

(e) The legislative, executive and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specifications of particular powers by any other provision of this charter, shall never be construed as impairing the effect of the general grant of powers of local government hereby bestowed;¹ (1909)

(f) The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with other governmental units of every kind and character. The City may become a shareholder or subscriber, or a joint owner, in any public or private corporation only in order to effect the development of energy or water resources after discovery, production, transportation or transmission of energy or water for the benefit of the City. (1975)

(g) The City shall also have all powers, privileges and functions which, by or pursuant to the Constitution of this State, have been or could be granted to or exercised by any City of the first class;² (1909)

(h) All powers of the City shall, except as otherwise provided in this charter, be vested in the elective officers, subject to distribution and delegation of such powers as provided in this charter or by ordinance. (1909)

2.1 *Council-Manager Government* - The municipal government provided by this charter shall be known as the "Council-Manager Government". Pursuant to its provisions and subject only to the limitations imposed by this charter, all powers of the City shall be vested in an elective council. (1975)

ARTICLE II

ELECTIVE OFFICERS

3. (a) *Elective Officers - Terms* - The elective officers of the City shall be a mayor and eight councilmen who shall be elected at the general municipal elections. The mayor and four councilmen shall be elected at large by the qualified electors of the City and one councilman shall be elected from each of the four election districts of the City by the qualified electors of such district as hereafter provided. The terms of the office of mayor and all councilmen, whether at large or from districts, shall be for a period of four (4) years. (1909; 1920; 1969; 1975)

(b) *Districts* - At least one hundred and twenty (120) and not more than one hundred and fifty (150) days before any City election at which District Councilmen are to be elected, the City Clerk shall divide the City into four election districts having substantially equal populations. All of the area in each district shall be contiguous. The Council shall provide by ordinance the method of creating said districts and establishing their boundaries, the giving of notice of such proceedings, the manner of protesting such proceedings and division of the City into said districts and for hearing on such protest. (1969; 1975; 1977; 1980)

1. *County Commissioners of El Paso County, et al. v. City of Colorado Springs*, 66 Colo. 111, 180 P. 301 (1919).

2. *Clough v. City of Colorado Springs*, *ibid.*

(c) *Commencement of Office* - The term of the mayor and councilmen shall commence at ten o'clock A.M. on the third Tuesday of April following their election, except the term of a councilman appointed to fill a vacancy shall commence upon the taking of the oath of office, and the term of the mayor and councilmen elected as a result of a recall election shall commence upon the declaration of the election and taking the oath of office. (1909; 1920; 1969; 1975)

(d) *Councilmen Elections* - The mayor and the four at-large councilmen shall be elected for four-year terms commencing with the 1979 general municipal elections. The four district councilmen shall be elected for four-year terms commencing with the 1977 general municipal elections. (1969; 1975)

(e) *Councilman Prohibitions* - No elected City officer shall be permitted to run for any elective City office, except that held by him, unless he gives notice in writing to the City Clerk of his intention to so run at least sixty (60) days prior to the date of the next municipal election. Such notice shall not be withdrawn after the 61st day preceding the next municipal election. Once such notice is given and not withdrawn, the office of that elected officer shall be automatically vacated at 9:59 a.m. on the third Tuesday in April following said election. The vacancy thus created shall be filled by election at the general municipal election next following when such notice was given. The term of office shall be for the unexpired term of the elected officer giving the notice. (1977)

4. *Qualifications* - No person shall be eligible to the office of mayor or councilman unless he be a citizen of the United States, at least twenty-five (25) years of age, and shall have been for five years¹ immediately preceding such election a citizen of the City of Colorado Springs, and for two (2) years immediately preceding his election shall have paid City taxes. (1909)

5. (a) *Vacancy* - The office of mayor or councilman shall become vacant upon death, resignation, removal from office, or forfeiture of office in any manner authorized by law. The office of mayor or at large councilman shall become vacant for failing to maintain bona fide residence in the City. The office of district councilman shall become vacant for failing to maintain bona fide residence in the district from which elected.

If a vacancy occurs in the office of mayor, the vice-mayor shall become the mayor until the next general municipal election. The vacancy on the Council created by the vice-mayor becoming mayor, shall be filled as set forth below. If at the next general municipal election the vice-mayor's term as a councilman has not expired, he shall resume the office of councilman until the term for which he was elected expires.

If a vacancy occurs in the office of councilman more than sixty (60) days prior to the next general municipal election, the Council shall appoint an eligible person to fill such vacancy within thirty (30) days of the date of vacancy until the next general municipal election. Any appointed councilman shall be subject to the provisions of recall set forth herein. If a vacancy occurs in the office of councilman within sixty (60) days of a general municipal election, such vacancy shall be filled at the next general municipal election. Any vacancy filled by election shall be for the unexpired term. (1909; 1975)

1. *Bird v. City of Colorado Springs*, 181 Colo. 141, 507 P.2d 1099 (1973) 5-year residency requirement found unconstitutional, see *Cowan v. City of Aspen*, 181 Colo. 386, 509 P.2d 1269 (1973) stating 1-year residency requirement constitutional.

(b) *Forfeiture of Office* - The mayor or a councilman shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office of councilman prescribed by this charter or by law; (2) violates any express prohibition or requirement of this charter; (3) is convicted of a crime which constitutes a felony in the jurisdiction in which it occurred, or (4) fails to attend three consecutive regular meetings of the Council without being excused by the Council. (1975)

6. *Removal* - The vice-mayor, as such officer, but not as a councilman, may be removed from office of vice-mayor by a vote of at least five (5) members of the Council. (1909; 1920; 1975)

ARTICLE III

THE COUNCIL

7. (a) *General Powers and Duties* - All powers of the City shall be vested in the Council, except as otherwise provided by law or this charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law. (1909; 1920; 1977)

(b) *Appointments* - The Council shall appoint by the concurring vote of a majority of its members a City Attorney, a City Clerk, a City Treasurer, and a City Auditor, whose duties, compensation and tenure of office shall be as prescribed by ordinance. The office of City Clerk and City Treasurer may be held by one person. All votes upon appointments to office shall be upon roll call and recorded. (1920; 1977)

8. *Mayor and Vice-Mayor* - The mayor shall be a member of the Council and shall preside at all meetings of the Council and perform such other duties consistent with his office as may be imposed by the Council by ordinance or resolution; he shall have a voice and vote in its proceedings but no veto. He shall be recognized as the official head of the City for the purpose of executing legal instruments; for all ceremonial purposes, and by the Governor or other constituted authority for the purpose of military law. He may take command of the police and govern the City by proclamation in times of public danger or emergency. A majority of the Council shall determine what constitutes such public danger or emergency; and such proclamation may be terminated at any time by the affirmative vote by a majority of the Council. The mayor shall have no administrative duties.

If the mayor be temporarily absent from the City or otherwise disabled from any cause, his duties shall, in the meantime, devolve upon and be performed by the vice-mayor. In the absence of both the mayor and the vice-mayor, the other members of the Council shall elect one of their number to perform the duties of mayor. At its first regular meeting on or after the third Tuesday in April of each odd-numbered year, and biennially thereafter, the Council shall elect one of its members as vice-mayor. (1909; 1920; 1975)

9. *Judge of Qualifications* - The Council shall be the judge of the election and qualification of its own members and of the grounds for the forfeiture of the office of mayor or councilman subject to review by the Courts in case of contest. (1909; 1977)

10. *Restrictions Upon Members of the Council* - The mayor or councilmen shall not hold any other City office, position, employment or be employed by any agency for which their compensation is directly paid by the City. No former mayor or councilman shall be appointed to any office, position or employment, the compensation of which was increased or fixed by the Council while he was a member thereof, until after the expiration of one year from the date when he ceased to be a member of the Council. (1909; 1977)

11. *Rules of the Council* - The Council shall make and publish its own rules of procedure within sixty (60) days of the effective date of this provision. The Council may amend its own rules. The Council may punish its members for disorderly conduct, and the Council may compel the attendance of members. (1909; 1977)

12. *Sessions of the Council* - (a) The Council shall meet at least once a month in legislative session, and the Council shall prescribe the time and place of its legislative sessions and the manner in which special meetings thereof may be called. (1909; 1977)

(b) The City Clerk shall be the Clerk of the Council. (1909; 1977)

(c) A majority of the members of Council shall constitute a quorum to do business, but a lesser number can adjourn. (1909; 1977)

(d) All sessions shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session personnel, land acquisition or legal matters; provided, always, no ordinance or resolution shall be passed in a closed or executive session. (1909; 1977)

(e) The Council shall cause to be kept a journal of its legislative sessions, which shall be a public record. (1909; 1977)

13. *Ordinances and Resolutions* - (a) At legislative sessions the Council shall act only by ordinance, resolution or motion. (1909; 1920)

(b) The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the Council's proceedings. Upon the request of any member, the ayes and noes shall be taken and recorded upon any motion. Every member when present must vote. Every ordinance and every resolution providing for the expenditure of money shall require on final passage the affirmative vote of five (5) members. (1909; 1920)

(c) No ordinance shall be passed finally on the date it is introduced, except in the case of public emergency as set forth in Section 15. (1909; 1920; 1977)

(d) The enacting clause of all ordinances passed by the Council shall be in these words: "Be It Ordained by the City Council of the City of Colorado Springs". (1909; 1920)

(e) The City Clerk shall with the mayor sign and attest all ordinances and resolutions. (1909; 1977)

14. *Publication of Ordinances* - Every ordinance shall be published twice in a daily newspaper of the City with the first publication to be at least ten (10) days before final passage of the ordinance published, and the second publication any time after its final passage. The ordinance shall not take effect until five (5) days after the second publication. However, emergency ordinances passed as provided in this Article shall take effect upon passage and be so published on the following day, subject always to the provisions of Article XIV. When the Council deems it appropriate, publication of the title of any ordinance with a summary written by the City Clerk, together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk shall be sufficient publication. (1902; 1920; 1977) (Ed. Note: The 1977 amendment brought together in a single section the provisions relating to publication which had previously been found in Sections 13 and 14.)

15. *Emergency Ordinances* - To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a license, permit, franchise, special privilege or authority, or regulate the rate charged by any public utility for its services. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing such emergency in clear and specific terms.¹ An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other ordinances. It shall become effective upon adoption or at such later time as it may specify. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. (1977)

16. *Amendment or Repeal* - No ordinance or section thereof shall be amended or repealed except by ordinance adopted in the manner provided in this charter. (1909; 1977) (Ed. Note: This provision was formerly Section 15 of the 1909 charter. The former Section 16 dealing with ordinances granting Franchises was repealed as unnecessary in 1977. See Article XII relating to Franchises and Licenses.)

17. *Record of Ordinances* - A true copy of every ordinance shall be kept in a book marked "Ordinance Record", and every ordinance shall be authenticated by the signatures of the mayor and City Clerk. (1909)

18. *Proof of Ordinances* - Any ordinance or any portion thereof may be proved by a copy thereof certified by the City Clerk, under the seal of the City; or when printed in book or pamphlet form and purporting to be published by the authority of the City, the same shall be received in evidence in all Courts, or other places, without further proof. (1909; 1977)

19. *Charter and Ordinances* - The Council shall, from time to time hereafter, cause such ordinances as it deems necessary to be codified under

1. The truth or falsity of a declaration by Council that an emergency exists is a legislative rather than a judicial question. *Shields v. City of Loveland*, 74 Colo. 27, 218 P. 913 (1923). Absent a showing that Council acted arbitrarily or capriciously, a reviewing court is bound by Council's determination of an emergency. *U.S. Disposal Systems, Inc. v. City of Northglenn*, Colo. 567 P.2d 365 (1977)

appropriate headings and to be published in book form, together with or separate from the charter and such provisions of the Constitution and laws of the State as the Council may deem expedient. The present ordinances, resolutions and orders not inconsistent with the provisions of this charter and in force at the time this charter takes effect shall continue in full force and effect until the Council otherwise by ordinance, resolution or motion provides. Such codification or any section thereof may be proven in the same manner and with the same effect as any other ordinance. (1909; 1977)

20. *Statements* - The Council shall cause to be printed each month in pamphlet form a detailed statement of all receipts and expenditures of the City and a summary of Council's legislative proceedings during the preceding month and furnish printed copies thereof to the public library, the daily newspapers of the City and to persons who shall apply therefor at the office of the Clerk. Said statement shall also show the amount of water used during the preceding month and the amount of reserve water in storage at the end of the month. (1909; 1977) (Ed. Note: This provision was formerly Section 21 of the 1909 charter. The former Section 20, dealing with the power of the City Council to establish offices and employments was repealed as unnecessary in 1977.)

21. *Adoption by Reference* - The City Council may by ordinance adopt by reference printed or published codes, provided, that such adoption shall be by ordinance published as required in Section 14; and provided further, no penalty clause may be adopted by reference. (1977)

21.1 *Independent Audit* - The Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no direct personal interest in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years, provided that the designation for any particular fiscal year shall be made not later than six (6) months after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this section. (1977; 1985)

22. (Repealed, 1920)

ARTICLE IV

THE CITY MANAGER¹

23. (a) *Appointment* - The City Council by a majority vote of its entire membership shall employ a City Manager who shall be the chief administrative officer of the municipal government under the City Council and shall hold office during its pleasure. He shall be appointed without regard to any consideration other than his fitness and competency. No member of the Council shall be appointed City Manager. By letter filed with the City Clerk, the Manager shall designate, subject to approval of

1. Created by amendment to the Charter adopted July 6, 1920.

the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another administrative officer of the City to serve until the Manager shall return or his disability shall cease. (1920; 1975)

(b) *Removal* - The Council at a meeting of Council may remove the City Manager by resolution, but only upon a vote of two-thirds of the entire Council. Upon removal, the Council may, in its discretion, provide termination pay. (1975)

24. Powers and Duties of the City Manager - The City Manager shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter or the Ordinances of the City. He shall have the following powers and duties:

(a) He shall see that the laws and ordinances of the City are enforced.

(b) Except as otherwise set forth in this charter, he shall appoint and suspend or remove any City employee. All appointments shall be upon merit and fitness alone. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(c) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this charter or by law. He may delegate administrative and ministerial functions of his office to personnel supervised and controlled by him, but despite such delegation, the responsibility for the proper and effective administration of the City remains always with the City Manager and none other.

(d) He shall see that all terms and conditions imposed in favor of the City or its inhabitants in any contract or franchise are faithfully kept and performed; and upon knowledge of any violation thereof to report the same to the City Attorney, who is hereby required to take such proceedings as may be necessary to enforce the same.

(e) He shall attend all meetings of the Council when requested by it, with the right to take part in its discussions but shall have no vote.

(f) He shall recommend to the council for adoption such measures as he may deem necessary or expedient.

(g) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year. He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(h) On or before the third Monday in November in each year he shall furnish to the Council estimates in writing of the probable expense to be incurred in the several departments of the City for the ensuing fiscal year, specifying in detail probable expenditures, including a statement of the salaries of all administrative officers and employees and certify the amount of money to be raised by taxation during the ensuing fiscal year to make payment of interest, sinking fund and principal of bonded indebtedness and also the estimated amount of revenue from all sources other than tax levy. At the same time or on such later date in each year as shall be fixed by the Council, he shall prepare and present to the Council his annual budget for the ensuing fiscal year, which shall include interest and sinking fund on the bonded debt. The budget so prepared shall be in such detail as to the aggregate sum and the items thereof allowed to each department, office, board or commission as he may deem advisable except such as are fixed by law.

(i) He shall perform such other administrative duties as may be prescribed by the charter or required of him by the Council. (1920; 1975)

ARTICLE V

ADMINISTRATIVE DEPARTMENTS

(Ed. Note: In the original 1909 charter, Article V was titled "Executive and Administrative Departments". It identified five departments by name and provided that each commissioner should have charge of one of those departments. The 1920 amendments specifically repealed the provisions assigning the commissioners to Departments but left the designation of the five departments intact. The 1977 amendment attempted to eliminate the apparently conflicting and archaic provisions and to establish a system which will permit necessary flexibility in organizing the City's administrative structure and pinpointing responsibility for the operation.)

25. Creation of Departments - By ordinance the City Council may establish departments, divisions, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other. Such departments, divisions, offices or agencies may include but not be limited to police, fire and health. (1977)

26. Direction by the City Manager - All departments, divisions, offices and agencies under the direction and supervision of the City Manager shall be administered by an administrative officer appointed by and subject to the direction and supervision of the City Manager. With the consent of Council, the Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them. (1977)

(Sections 27 through 29 inclusive, Repealed, see Ed. Note above)

ARTICLE VI

UTILITIES

(Ed. Note: Article VI, including Sections 30 through 34, as originally adopted in the 1909 charter, referred only to Water and Water Works. In 1925 the City acquired the electrical generation and transmission systems serving the City. In 1929 the City developed its own gas distribution system. In 1939, the people of the City adopted a charter provision numbered 79(a) which established a Public Utilities Department consisting of the Division of Water and Water Works, the Division of Electric Light and Power, and the Division of Gas and "any other public utility acquired by the City". In 1948 the Wastewater Division, then known as the Sewer Division, was created as yet another division of the Department of Utilities. The 1977 amendment to the charter attempted to draw all these divergent provisions together into one location.)

30. *Definitions* - For the purposes of this Article the term "Utility" shall mean the acquisition, erection, construction, operation or maintenance by the City of water systems, wastewater systems, electric light and power systems, gas systems and such other systems designated by Council which are necessary for the citizens and owned by the citizens of the City of Colorado Springs. (1977)

31. *General Powers* - The City shall have and exercise with regard to utilities, all municipal powers, including without limitation, all powers now existing and which may hereafter be provided by the Constitution and laws of the State of Colorado. (1977)

32. *Department of Utilities - Accounting - Reserves*

(a) The City Council shall serve as the Board of Directors for the Department of Utilities. The Department of Utilities shall include the Division of Water and Water Works, the Division of Waste Water, the Division of Electric Production, the Division of Electric Transmission, the Division of Gas and such other utilities assigned to the Department of Utilities by Council. Each of said Divisions shall be administered as an entity, and its accounts shall be kept separate from the accounts of any other division. The funds of the Department of Utilities shall be kept separate from the funds of all other departments of the City.

(b) The net earnings of the Department of Utilities shall be appropriated for the necessary requirements of any of its Divisions, or of the Department as a whole, and any remaining surplus may be appropriated to the general revenues of the City by the City Council in its Annual Budget and Appropriation Ordinance.

(c) Adequate reserves for the replacement of obsolescent or depreciated property shall be provided annually in the accounts and budgets of the several Divisions of the Department of Utilities in accordance with the Uniform Classifications of accounts as now or hereafter adopted by the Public Utilities Commission of the State of Colorado. All such reserves not utilized for the replacement of obsolescent or depreciated property, or for additions or betterments to

the Plant or equipment of the several Divisions of the Department shall be funded, and such funded reserves shall not be appropriated for any other use than the replacement of obsolescent or depreciated property, or for addition or betterments to the physical property of the Department or for the payment of principal bonds of the Department.

(d) Nothing herein shall affect the requirements of any existing bond ordinance or the obligations of the City with reference to any outstanding bonds.

(e) The Council shall cause to be printed annually for public distribution a report showing all costs of maintenance, extension and improvements; all operating expenses of every description; the amount set aside for sinking fund purposes; the value of any utility service given without charge; allowance for interest, depreciation and insurance, and estimates of the amounts of taxes that would be chargeable against such property if owned by a private corporation. (1939; 1977; 1985)

33. *Water Rights* - The City shall have the authority to buy, exchange, augment, lease, own and control water and water rights. (1977; 1985)

34. *Emergency Warrants* - If at any time since the passage of the last annual appropriation ordinance the monies appropriated and available for the Department of Utilities shall be insufficient in the judgment of the Council to meet any emergency in the Department, the Council may upon passage of a resolution declaring an emergency cause warrants to be issued payable out of the receipts of the Department of Utilities for the ensuing year, including the proceeds from the sale of bonds. Said warrants and monies realized thereon shall be applied only to meeting the emergency so declared. (1909; 1977)

34.1 *Utility Rates* - The Council shall by ordinance or resolution establish rates, rules and regulations and extension policies for the services provided by the Department of Utilities. (1909; 1977)

ARTICLE VII

FINANCE

(Amended April 5, 1977)

35. *Fiscal Year* - The fiscal year of the City shall commence on the first day of January and end on the last day of December of each year. (1909; 1977)

36. *Public Monies* - (a) The City Manager shall have the direct control of the revenues of the City except as otherwise provided by this charter or by ordinances.

(b) The Council shall by ordinance provide a system for the collection, custody and disbursement of all public monies not inconsistent with the provisions of this Charter. (1909; 1977)

37. *Budget* - (a) The Council shall, on receipt of the budget,¹ adopt the budget with or without amendment. In amending the budget, the Council may add or increase programs or amounts and may delete or decrease any programs or amounts, except amounts required by law or for debt service on general obligation bonds or for estimated cash deficit; provided, however, that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

(b) In adopting the budget the Council shall also estimate and declare the amount of money necessary to be raised by tax levy. The estimate shall take into account the amounts available from other sources to meet the expenses of the City for the ensuing fiscal year. The budget and estimate as finally adopted shall be signed by the Mayor and City Clerk and filed with the Controller. (1909; 1977) (Ed. Note: Formerly Section 41.)

38. *Levy* - (a) Upon said estimate, the Council shall forthwith proceed to make by ordinance the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the City, such levy representing the amount of taxes for City purposes necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the Treasurer.² The Council shall thereupon cause the total levy to be certified by the Clerk to the County Assessor who shall extend the same upon the tax list of the current year in a separate column entitled "The City of Colorado Springs Taxes", and shall include said City taxes in his general warrant to the County Treasurer for collection. The levy shall never exceed twenty mills on the dollar for all general City purposes upon the total assessed valuation of said taxable property within the City. The foregoing limitation of twenty mills shall not apply to taxes levied by the Council for the payment of any interest, sinking fund or principal of any bonded indebtedness of the City now existing or hereafter created, nor for payment of interest, sinking fund or principal of the indebtedness of any town or city which may hereafter be incorporated with or annexed to the City; nor to special assessments for local improvements.

(b) If the Council fails in any year to make the tax levy as above provided, then the rate last fixed shall be the rate fixed for the ensuing fiscal year.

(c) The amount required to make payment of any interest, sinking fund or principal of bonded indebtedness shall always be included in and met by tax levy, except as otherwise provided for in this Charter. (1909; 1977) (Ed. Note: Formerly Section 42.)

39. *Appropriations* - Upon the basis of the budget as adopted and filed, the several sums shall forthwith be appropriated by ordinance to the several purposes therein named for the ensuing fiscal year. Said ordinance shall be adopted not later than the thirty-first day of December in each year, and shall be entitled "The Annual Appropriation Ordinance". (1909; 1977) (Ed. Note: Formerly Section 43.)

40. *No Liability Without Appropriation* - Neither the Council nor any administrative officer or employee of the City shall have authority to make any contract involving the expenditure of public money, or impose upon the City any liability to pay

1. Ed. Note: It is the City Manager's responsibility to draft and submit the annual budget. See Section 24(h).

2. Home rule municipalities are empowered to assess property and levy taxes and municipal, county, or state officials may collect said taxes. Colo. Const. Art. XX § 6(g).

money, unless and until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability of the City under such contract or in consequence thereof to mature during the period covered by the appropriation. Such contract shall be ab initio null and void as to the City for any other or further liability, provided, first that nothing herein contained shall prevent the Council from providing for payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the annual appropriation ordinance; and, second, that the provisions of this Section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for monies to be collected by special assessments for local improvements. (1909; 1977) (Ed. Note: Formerly Section 44.)

41. *Collection of Taxes* - (a) Unless otherwise provided by ordinance, the County Treasurer shall collect City ad valorem taxes in the same manner and at the same time as general ad valorem taxes are collected, and all laws of this State for the assessment of property and the levy and collection of general ad valorem taxes, including laws from the sale of property for taxes and the redemption of the same, shall apply and have as full effect in respect of taxes for the City as of such general ad valorem taxes, except as modified by this charter.

(b) All laws of this State for the assessment of property and the levy and collection of ad valorem taxes, sale of property for taxes, and the redemption of the same shall apply and have full force and effect in respect to taxes for the City as to such general ad valorem taxes, except as modified pursuant to this charter. (1909; 1977) (Ed. Note: Formerly Section 46.)

42. *Limitation on City Indebtedness* - (a) No bonds or other evidences of indebtedness, payable in whole or in part from the proceeds of ad valorem property taxes or to which the full faith and credit of the City are pledged in writing or otherwise, shall be issued, except in pursuance of an ordinance authorizing the same, and unless the question of the issuance of the bonds shall at any special or general election be submitted to a vote of the qualified electors of the City and approved by a majority of those voting on the question. However, the Council pursuant to ordinance and without election may:

(1) Issue local improvement district bonds.

(2) Borrow money or issue bonds for the purpose of acquiring, constructing, extending or improving water, electric, gas, sewer or other public utilities or income-producing projects; provided, further, that said borrowing shall be repaid and said bonds shall be made payable solely out of the net revenue derived from the operation of the utility, utilities or other income-producing projects, or any or all thereof. Net revenue shall mean gross revenue less all operation and maintenance expenses of the project for which the money was borrowed or bonds issued.

(b) The City shall not become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten (10%) percent of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes; provided, however, that in determining the amount of indebtedness, there shall not be included within the computation of indebtedness local improvement district bonds, revenue bonds, or general obligation bonds or other evidences of indebtedness issued for the acquisition, construction, extension or improvement of water facilities or supplies, or both. (1909; 1965; 1977) (Ed. Note: Formerly Section 47.)

43. *Surplus and Deficiency Fund* - Where all outstanding bonds have been paid in a local improvement district, sometimes called public improvement district, and any money remains to the credit of said district, it shall be transferred to a special surplus and deficiency fund, and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds, it shall be paid out of said fund. Whenever a local improvement district, sometimes called public improvement district, has paid and cancelled four-fifths of its bonds outstanding, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district, and there is not sufficient money in said special surplus and deficiency fund, then the City shall pay said bonds when due and reimburse itself by collecting the unpaid assessments due said district.¹ (1961; 1977) (Ed. Note: Formerly Section 47(a)).

(Sections 44 through 48 inclusive Repealed, 1977)

ARTICLE VIII

MUNICIPAL COURT

(Ed. Note: Article VIII formerly dealt with the Department of Public Safety. It provided also for relief funds for Police and Fire Departments and for a Police Court. The function of the relief funds has been superseded by statutory provisions for pension funds and the office of Police Court is totally outmoded.)

49. *Municipal Court* - There shall be a Municipal Court for the City of Colorado Springs. The practice and procedure of said Court shall be as set forth by Colorado Statutes, Colorado Supreme Court Rules, and City ordinances as now existing or hereinafter amended or modified. (1977)

(Sections 50 through 54 inclusive Repealed, 1977)

ARTICLE IX

(Reserved, 1977)

(Ed. Note: This Article formerly dealt with the Department of Public Works and Property.)

1. A similar Denver charter provision was upheld in *Montgomery v. City and County of Denver*, 102 Colo. 427, 80 P.2d 434 (1938); *Fladung v. City of Boulder*, 165 Colo. 244, 438 P.2d 688 (1968).

ARTICLE X

BOARDS AND COMMISSIONS

(Ed. Note: Article X formerly dealt with the Department of Health and Sanitation. A 1949 amendment made possible the creation and operation of a joint City-County Health Department, which was created in 1950 and continued in operation until 1976 when a County Health Department having county-wide jurisdiction was created. At this writing the City contracts with the County Health Department to provide enforcement services for Housing Codes and similar health and sanitation matters which are of only city-wide application.)

55. *Boards and Commissions* - (a) In addition to those Boards and Commissions existing at the time of this charter, the Council may create any boards and commissions including advisory and appeal boards. All boards and commissions shall be created by ordinance, which shall prescribe the powers and duties delegated by Council. Initial appointments by the Council to any board or commission shall specify the term of office of each member in order to achieve overlapping terms. All members shall be subject to removal by the Council. Council shall also make appointment to fill vacancies for unexpired terms. Each board and commission shall elect its own chairman and vice-chairman from among its members. Each board and commission shall operate in accordance with its own rules of procedure, except as otherwise directed by Council.

(b) The Council may increase, reduce, or change any or all of the powers, duties and procedures of any boards or commissions existing at the time of this charter, or created by ordinances thereafter.

(c) Any board or commission existing at the time of this charter or created under this provision which is not required by this charter or law may be abolished by Council. (1977)

(Sections 56, 57 and 60 repealed, 1949)

(Sections 58, 59 and 61 repealed, 1977)

ARTICLE XI

PUBLIC LIBRARY

(Ed. Note: Article XI was formerly titled "Commissions and Boards" and dealt with the Park Commission and the Public Library. In 1947 the Charter was amended to permit the park system to become a department of the City, and a 1961 amendment took advantage of the 1947 Library Law to permit the Public Library to become an autonomous public agency with independent taxing power. Therefore in 1977 no need existed for either provision.)

62. "The 1947 Library Law" of the State of Colorado as now existing or hereinafter amended or modified shall be applicable to public libraries in the City and shall govern the establishment, maintenance and operation of such public libraries. Any limitation of a mill levy to establish, maintain and operate such public libraries as set forth in "The 1947 Library Law" shall not be applicable to the City and levy of tax for establishment, maintenance and operation of public libraries in the City shall be by ordinance. (1909; 1961; 1977)

ARTICLE XII

FRANCHISES AND LICENSES

(Ed. Note: In 1909 there were at least two franchises in existence in the City -transportation (street railway), and light and power. In 1925 the outstanding light and power franchise terminated and the City acquired all assets of the company and has owned and operated the system since that time. In 1971 the transportation company voluntarily relinquished its franchise and the City acquired all its assets. An excellent opportunity was thus provided to re-write all existing franchise provisions of the Charter. No attempt has been made in this Article to maintain a numbering system consistent with the 1909 numbering.)

63. *Definitions* - (a) Franchise: For the purpose of this charter, and the ordinances of the City of Colorado Springs, the term "franchise" shall mean a special right or privilege granted by vote of the electorate of the City of Colorado Springs to any person, firm or corporation to erect, construct, operate, carry on, or maintain an electric power plant, communication system, gas plant or system, rail or mass transit system, or any other business activity affective of the public interest which permanently occupies and obstructs the public streets, rights-of-way, alleys or properties, together with such other uses as are determined by ordinance to be of such a public concern that want of regulation and control will injuriously affect the public or its general interest.

(b) License: For the purposes of this charter, and the ordinances of the City of Colorado Springs, the term "license" shall mean a temporary or revocable permission granted to all other activities not a franchise. (1977)

64. *General Powers* - The City shall have and exercise with regard to all franchises, all municipal powers, including without limitation, all powers now existing and which may hereafter be provided by the Constitution and Statutes. In every franchise the right of the City to construct, lease, purchase, acquire, condemn or operate any public utility, work, or way, shall be expressly reserved. Except as otherwise provided by the Constitution or this charter, all powers concerning the method of granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Council. (1977)

65. *Granting of Franchises* - (a) No franchise shall be granted except upon approval by a majority of the electors voting thereon.¹

1. Colo. Const. Art. XX § 4.

(b) Except when the terms, fees, construction, conditions or any other matters relating to the granting of franchises are set by the vote of the electorate, the Council shall establish by ordinance the terms, fees, compensation, conditions and any other matters relating to the granting of franchises. (1977)

66. *Tax* - The City shall have the right to license or tax the equipment of any franchise. The license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof. (1909; 1977) (Ed. Note: Formerly Section 68.)

67. *No Franchise Leased, Exception* - No franchise granted by the City shall ever be leased, assigned or otherwise alienated without express consent of the City, and no dealing with the lessee or assignee on the part of the City to require the performance of any act or payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. (1909; 1977) (Ed. Note: Formerly Section 74.)

68. *Term Not Longer Than 25 Years* - No franchise, lease or right to use the property of the City shall be granted by the City, except as in this charter provided, for a longer period than 25 years. (1909; 1977) (Ed. Note: Formerly Section 80.)

69. *No Exclusive Franchise - Renewal* - No exclusive franchise shall ever be granted, and no franchise shall be renewed before one year prior to its expiration. (1909) (Ed. Note: Formerly Section 73.)

70. *City May Purchase* - Every grant of franchise shall provide that the City may purchase and take over the property of the holder in whole or in part. (1909; 1977) (Ed. Note: Formerly Section 81.)

71. *Franchise Records* - The City Clerk shall keep an indexed Franchise Record in which shall be transcribed copies of all franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The Franchise Record shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual reports and such other matters of information and public interest as the Council may, from time to time, require. (1909; 1977) (Ed. Note: Formerly Section 78.)

72. *License or Temporary Permits* - The Council may grant a temporary permit, a license or an easement at any time, in, on, above, through or under any street, alley or public place, provided such license, temporary permit or easement shall be revocable at any time, and that such right to revoke shall be expressly reserved in every temporary permit, license or easement which may be granted hereunder. (1909; 1977) (Ed. Note: Formerly Section 83.)

(Sections 73 through 83 inclusive, Repealed, 1977)

ARTICLE XIII

ELECTIONS¹

(Ed. Note: Article XIII formerly set forth detailed provisions which regulated municipal elections within the City. These included provisions regulating the registration of voters, the form of nomination petitions, the form of ballots, and the use of carriages or other vehicles on election day. The 1979 amendment eliminates such outmoded provisions, and allows Council to regulate municipal election matters by ordinance.)

84. *Laws Governing Elections* - General and special municipal elections shall be governed by this Charter and such ordinances as Council may prescribe not inconsistent herewith. The Council may, by ordinance, establish the method for the registration of electors; the number, qualification and compensation for election judges and clerks; the boundaries of election precincts; the districting of the City for establishing districts, and such other matters relating to elections. Elections concerning repeal or amendment to this Charter shall be governed by this Charter, Colorado statutes, and such ordinance as the Council may prescribe not inconsistent therewith. (1979)

85. *Municipal Elections* - A general municipal election shall be held in the City on the first Tuesday in April in each odd-numbered year. Special elections may be held on any Tuesday designated by the City Council, except as limited in the Colorado Municipal Election Law as now existing or hereafter amended. (1979)

86. *Non-Partisan Elections* - All municipal elections shall be nonpartisan. In accepting a nomination, a candidate shall by Affidavit, filed with the City Clerk, attest to the fact that he has not become a candidate as the nominee or representative of or because of any promised support from any political party, committee, convention or organization representing or acting for any political party. (1979)

87. *Disclosure of Private Interests by City Councilmen and Candidates for Council* - The City Council shall provide by Ordinance for the Disclosure of Substantial Private Business Interests by candidates for and members of the City Council. (1979)

88. *Campaign Disclosures* - The City Council shall provide by Ordinance for the Disclosure of Election Campaign Expenditures and Election Campaign Contributions. (1979)

89. *Names on Ballots* - The names of all candidates for each elective office shall be printed on the ballots in a random order which shall be determined by the City Clerk. (1979)

(Sections 90 through 111 inclusive, Repealed, 1979)

1. Power to regulate municipal elections: Colo. Const. Art. XX § 6(d).

ARTICLE XIV

RECALL, INITIATIVE AND REFERENDUM¹

(Ed. Note: Former Article XIV dealt solely with the recall of elective officers. The initiative provisions were set forth in former Article XV, with former Article XVI dealing with the referendum. The 1979 amendment repealed Articles XV and XVI, and combined the recall, initiative and referendum provisions under Article XIV. The amendment also substantially revised the recall, initiative and referendum sections so as to ensure their compliance with the Colorado Constitution. Because the revision was so extensive, no attempt was made to conform to the former numbering system and no reference is made to the number of former sections dealing with similar provisions.)

112. *General Authority* -

(a) *Recall*. Any officer having held his elective office for at least six (6) consecutive months may be removed by both petition and vote of the electors of the City. Electors who are entitled to sign the petition and to vote in the recall election are those persons who are entitled to vote for a successor to the incumbent sought to be recalled.

(b) *Initiative*. The electors of the City shall have power to propose ordinances to the Council, and if the Council fails to adopt an ordinance so proposed, to adopt or reject such ordinance at a City election.

(c) *Referendum*. The electors of the City shall have power to recommend reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject such ordinance at a City election, provided that such power shall not extend to ordinances making tax levy or appropriation or establishing special improvement districts.²

(d) *Repeal of Initiated Ordinance*. The Council may, on its own motion, submit any ordinance adopted by the initiative to a vote of the electors at any succeeding general municipal election for repeal or amendment of the initiated ordinance. An ordinance so adopted by a vote of the electors cannot be repealed or amended except by a vote of the electors.³

(e) *Reference by the Council*. Subject to the provisions of Section 112(d), the Council may, of its own motion, submit to electoral vote for adoption or rejection at a general or special municipal election any proposed ordinance or measure in the same manner and with the same force and effect as is provided for initiated ordinances.⁴

(f) *Further Regulations*. The Council may, by ordinance, make such further regulations as it may deem necessary to carry out the provisions of the initiative and referendum powers, except as limited by this Charter and the Colorado Constitution. (1979; 1985)

1. Cf., Colo. Const. Art. V, Art. XXI.

2. A reservation of power in the people of a city by its charter providing for referendum must be liberally construed in favor of the people's right to exercise such power. Any limitations on the referendum power must be strictly construed and should not be extended either by implication or inference. *Brooks v. Zabka*, 168 Colo. 265, 450 P.2d 653 (1969).

3. *Webb v. Dorlac*, 75 Colo. 49, 224 P.220 (1924).

4. *Webb v. Dorlac*, *supra*.

113. *Commencement of Proceedings; Petitioner's Committee; Affidavit* - Any three (3) electors may commence recall, initiative or referendum proceedings by filing with the City Clerk an Affidavit stating they will constitute a Petitioner's Committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out either:

(a) The name of the officer or officers sought to be removed and a general statement in not more than two hundred (200) words on the ground or grounds upon which removal is sought; or

(b) The full text of the proposed initiative ordinance; or

(c) The full text of the ordinance is sought to be reconsidered.

As soon as possible after the Affidavit of the Petitioner's Committee is filed, the Clerk shall issue the appropriate petition blanks to the Petitioner's Committee. (1979; 1985)

114. *Petitions.*

(a) *Form and Content.*

(1) *Uniform Petition Blanks:* The City Clerk shall issue appropriate petition blanks consisting of sheets having such general form printed at the top as designated by the City Clerk, for either recall, initiative or referendum. The Clerk, upon issuing such forms to any persons, shall enter in a permanent record to be kept in his office for this purpose the name of the persons to whom issued, the date of such issuance and the number of such forms issued, and shall certify on each of said forms under his seal, the name of at least one of the persons to whom issued and the date of the issuance. No referendum, initiative or recall petition shall be filed unless it shall bear such Certificate of the Clerk. The uniform petition blanks shall be furnished without charge.

(2) *Statement of Purpose:*

(i) *Recall* - The petition shall contain a general statement, in not more than two hundred (200) words, of the ground or grounds on which such recall is sought, which statement is intended for the information of the electors, and the electors shall be the sole and exclusive judges of the legality, reasonableness and sufficiency of such ground or grounds assigned for such recall, and said ground or grounds shall not be open to review.

(ii) *Initiative* - The petition shall contain or have attached thereto throughout its circulation the full text of the ordinance proposed. The City Council shall by ordinance prescribe the method for setting the title of the initiated ordinance.

(iii) *Referendum* - The petition shall contain or have attached throughout its circulation the full text of the ordinance sought to be referred to.

(3) *Signatures* - Each signer must sign his own proper signature, the date of signing said petition, and his place of residence, giving his street and number. The signatures to the petition need not all be on one sheet of paper. The petition may be circulated and signed in sections with each section consisting of one or more sheets, provided that each section shall contain a full and accurate copy of the title and text of the petition. All sheets and sections shall be filed as one instrument.

(b) *Affidavit of Circulator* - To each section of a petition, which section may consist of one or more sheets, shall be attached an Affidavit by the Circulator, signed under oath before a Notary Public, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that to the best of his knowledge each signature appended to the paper is the genuine signature of the person whose name it purports to be, that each signer had an opportunity before signing to read the full text of the matter proposed or sought to be reconsidered, and that to the best of his knowledge each signer is a elector of the City of Colorado Springs.

Such petition so verified shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are electors.

(c) *Number of Signatures* -

(1) *Recall* - The petition shall be signed by electors entitled to vote for a successor of the incumbent sought to be recalled equal in number to twenty-five percent (25%) of the entire vote cast at the last preceding election for all candidates for the position which the incumbent sought to be recalled occupies.

(2) *Referendum* - The petition must be signed by electors of the City equal in number to at least ten percent (10%) of the last preceding gubernatorial vote in the City of Colorado Springs as the City boundaries existed on the date of such gubernatorial vote.

(3) *Initiative* - The petition must be signed by electors of the City equal in number to at least fifteen percent (15%) of the last preceding gubernatorial vote in the City of Colorado Springs as the City boundaries existed on the date of such gubernatorial vote.

(d) *Time for Filing Petitions* - Days shall be calendar days starting the day following the date of filing of the Affidavit and including the last date only. Holidays and weekends shall be counted; however, when the last date falls on a day when the City Clerk's office is closed, then the next following business day shall be the last day for filing.

(1) *Recall* - All petitions shall be returned and filed with the Clerk within sixty (60) days from the issuance of such blank petition forms.

(2) *Referendum* - Within ten (10) days of final reading by the City Council of the ordinance sought to be reconsidered, Petitioners' Committee must file its Affidavit of Intent; and, within thirty (30) days from the date of final reading, the completed petition must be filed.

(3) *Initiative* - All petitions shall be returned and filed with the Clerk within one hundred eighty (180) days from the issuance of such blank petition forms. (1979; 1985)

115. *Procedure After Filing* -

Certificate of Clerk; Amendment - Within thirty (30) days after the petition is filed, the City Clerk shall examine the petition to determine whether the petition is signed by the requisite number of electors, and shall attach thereto his Certificate showing the result of such examination. If his Certificate shows the petition to be insufficient, he shall send to the Petitioner's Committee by registered mail, within said thirty (30) days, a copy of the Certificate, which shall specify the particulars wherein it is defective; and the petition may be amended at any time within thirty (30) days from the filing of the Certificate. The Clerk shall, within thirty (30) days after such amendment, make like examination of the amended petition and attach thereto his Certificate of the result. If still insufficient, or if no amendment is made, he shall return the petition to the Petitioners' Committee without prejudice to the filing of a new petition for the same purpose.

If a petition or amended petition is certified sufficient, the Clerk shall promptly present his Certificate to the Council and the Certificate shall then be a final determination as to the sufficiency of the petition. (1979; 1985)

116. *Referendum Petitions; Suspension of Effect of Ordinance* -

No ordinance passed by the Council shall go into effect except as provided in Section 14, and except emergency ordinances or ordinances making or setting appropriations. Upon the filing of the Petitioners' Committee Affidavit of intention to file a petition in referendum, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) The Petitioners' Committee fails to file a completed petition within the thirty (30) days from the date of the final reading, or
- (2) There is a final determination of insufficiency of the petition, or
- (3) The Petitioners' Committee withdraws the petition, or
- (4) The Council repeals the ordinance, or
- (5) Upon a vote by the electors wherein the referred ordinance prevails. (1979; 1985)

117. *Action on Petitions -*

(a) *Action by Council -*

(1) *Recall* - The Council, if the officer sought to be removed does not resign within five (5) days after the attachment of the Clerk's Certificate that a sufficient petition has been filed, shall order an election to be held on a Tuesday fixed by it, not less than thirty (30) nor more than sixty (60) days from the date of the Clerk's Certificate that a sufficient petition is filed; provided, however, that if any other municipal election is to occur within ninety (90) days from the date of the Clerk's Certificate, the Council may, in its discretion, postpone the holding of the recall election to the date of such other municipal election. If a vacancy occurs in said office after the order for the recall election, the election shall proceed as provided in this Article. The incumbent shall continue to perform the duties of his office until the election. If then not recalled, he shall continue in office. If then recalled, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within ten (10) days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant. The method of removal by recall herein provided for shall be cumulative and additional to any method otherwise provided in this Charter.

(2) *Initiative* - If the petition contains a request that said proposed ordinance be submitted to a vote of the people, if not passed by the Council, the Council shall within twenty (20) days after the attachment of the Clerk's Certificate of Sufficiency to the accompanying petition either:

(i) Pass said ordinance without alteration (subject to the provisions of Section 112(e) of this Charter) or

(ii) Call a special election within ninety (90) days unless a general municipal election is fixed within said ninety (90) days; and at such special or general municipal election said proposed ordinance shall be submitted without alteration to the vote of the electors of the City.

(3) *Referendum* - When a referendum petition has been finally determined sufficient, it shall be the duty of the Council to reconsider such ordinance, and if the same be not entirely repealed, the Council shall submit the ordinance to a vote of the electors of the City, at a special municipal election to be called for that purpose within ninety (90) days of receipt of the Clerk's Certificate, unless a general municipal election is fixed within said ninety (90) days.

(b) *Submission to Voters; Election -*

(1) *Recall* - The nomination of other candidates, the publication of notice of such removal election, and the conduct of the same shall all

be in accord with the provisions of Article XIII hereof, relating to elections.

There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of Councilman, Mayor?" Following such question shall be the words, "Yes" or "No", on separate lines, with a blank space at the right of each, in which the voter shall indicate his vote for or against such recall. Below the question shall be printed in not more than 200 words, the reasons set forth in the petition for demanding his recall, and in not more than 300 words there shall also be printed, if desired by him, the officer's justification of his course in office.

On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled; but no vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of such person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. Where more than one District Councilman is subject to the recall election, the candidates for a District Councilman's position shall be listed below that District Councilman subject to the recall. Where more than one Councilman at large is subject to the recall election, the candidates seeking election shall run at large and not in place of any particular Councilman whose removal is being sought.

(2) Initiative

(i) Publication of Initiative Ordinance - Whenever any proposed ordinance is required by this Charter to be submitted to the voters of the City at an election, notice of such election shall be in accordance with Article XIII of this Charter, which notice shall include the full text of the initiated ordinance, and if adopted by the electors of the City, such ordinance shall be published within ten (10) days after such adoption, and shall become effective immediately upon publication.

(ii) Several Ordinances at One Election - Any number of proposed ordinances may be voted on at the same election, in accordance with the provisions of this Article.

(iii) Ballots - The ballots used when voting upon each proposed ordinance shall contain the words, "For the Initiated Ordinance" and "Against the Initiated Ordinance" and the ballot shall contain the title of the Ordinance as it was circulated in the petition.

(3) *Referendum* -

(i) *Publication* - Notice of election shall be in accordance with Article XIII of this Charter, which notice shall include the full text of the ordinance or only the title thereof, as Council may decide.

(ii) *Ballot* - The ballots used when voting upon each referred ordinance shall contain the words, "For the Ordinance" and "Against the Ordinance" and the ballot shall contain the title of the Ordinance as it was circulated in the petition. (1979; 1985)

118. *Results of Election* -

(a) *Recall* - If a majority of those voting on said question of the recall of any incumbent from his office shall vote "No", the incumbent shall continue in his office; if a majority shall vote "Yes", the incumbent shall thereupon be deemed removed from his office.

If a District Councilman or Mayor shall be removed, then the candidate who has received the highest number of votes for that district or Mayor's position thereby vacated shall be declared elected for the remainder of the incumbent's term. In the event of the removal from office of only one Councilman at large where other Councilmen at large were also subject to the recall election, the candidate who receives the highest number of votes shall be thereby elected to the office vacated for the unexpired term of the removed Councilman. In the event of the removal of more than one Councilman at large, the candidate who receives the highest number of votes shall be thereby elected to the office of Councilman for the longest unexpired term of the Councilman removed. The candidate who receives the next highest number of votes shall be thereby elected to the office of Councilman at large for the next longest unexpired term. Candidates shall thereafter be elected to the remaining unexpired terms of the removed Councilmen. In case the person who received the highest number of votes shall fail to qualify within ten (10) days after the issuance of a Certificate of election, the office shall be deemed vacant, and shall be filled according to law.

No person who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against him shall be appointed to any City office, board, position of responsibility, or employment within one year after such removal by recall or resignation.

(b) *Initiative* - If a majority of the electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results.

(c) *Referendum* - If a majority of the electors voting on a referred ordinance vote in favor of the ordinance, it shall then go into effect upon certification of the election results.

(d) If conflicting ordinances, proposed either by initiative and/or referendum, are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.¹ (1979; 1985)

(Sections 119 through 131, inclusive, Repealed, 1979)

(Articles XV and XVI, Repealed, 1979)

ARTICLE XVII

OFFICERS, EMPLOYEES AND SALARIES²

132. *Officers, Employees* - The Mayor and Councilmen shall be the legislative officers of the City. The City Manager, City Attorney, City Clerk, City Treasurer, City Auditor and all department heads appointed by the City Manager shall be the administrative officers of the City. All other persons employed by the City shall be City employees. (1909; 1979)

(Sections 133 and 134 Repealed, 1920)

135. *No Salary to Councilmen* - No salaries shall be paid to any Councilman nor to the Mayor or Vice-Mayor. (1909; 1920)

136. (Repealed, 1979)

137. (Repealed, 1920)

138. (Repealed, 1979)

139. *Oaths* - Every legislative and administrative officer of the City and all other employees required by law shall, before they enter upon the duties of their office, take, subscribe and file with the Clerk an oath or affirmation to support the Constitution of the United States, and the Constitution of the State of Colorado, and to faithfully perform the duties of the office upon which they shall be about to enter. (1909; 1979)

140. *Bonds* - If any officer or employee is required by law to give bond, he shall not be deemed qualified for his office or employment until such bond has been duly filed. (1909; 1979)

141. *Personal Financial Interest* - Any City officer, employee, or appointee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City officer or employee in the making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals

1. With regard to initiated constitutional amendments which conflict, see *In re Interrogatories*, 189 Colo. 1, 536 P.2d 308 (1975). Cf., Colo. Rev. Stat. § 1-40-113 (1973).

2. Power to define and regulate municipal officers, agencies and employments. Colo. Const. Art. XX § 6(a).

such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the express or implied knowledge of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the City Council. (1909; 1977; 1979)

142. *Prohibitions -*

(a) *Activities Prohibited -*

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(4) No person shall orally, by letter or otherwise, solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive City position. (1909; 1979)

(Sections 143 through 145 inclusive, Repealed, 1979)

145.A. *Removal of Striking Employees -*

(a) It shall be unlawful for any employee of the City of Colorado Springs to participate in or engage in a strike or any action to withhold service from the City. In the event of such strike or action any employee who participates or engages therein shall be disciplined. Such discipline shall be discharge; however, for any such employee who has acted in violation of this section as a result of coercion or threat of serious harm, such discipline shall be suspension without pay. Such disciplinary action may be appealed only under such rules as the City Manager shall establish. Neither Council nor any administrative officer of the City shall grant amnesty to any employee in violation of this section. (1979; 1980)

(b) Appointing authorities shall cause timely hearings to be held for any employees charged hereunder. If the City Manager or other appointing authority,

after a hearing, determines that the charges are supported by the evidence submitted, and that the employee willfully engaged in the strike or action, said appointing authority shall dismiss the employee involved, and said person shall not be reinstated or returned to the City of Colorado Springs employment except as a new employee who is employed in accordance with the regular employment practices of the City in effect at that time for the particular position of employment.

(c) No legislative or administrative officer, board, city councilman, or mayor of the City, elected or appointed, shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

(d) Every employee of the City of Colorado Springs employed under the provisions of this Charter on the effective date of this section, and each person employed pursuant to the provisions of this Charter and the ordinances of the City on or after the effective date of this section, shall be furnished a copy and apprised of the provisions of this section and shall make under oath and file in the office of the Director of Personnel the following declaration: "I hereby acknowledge receipt of a copy of the provisions of Section 145.A. of the Charter of the City of Colorado Springs and hereby declare that during the term of my employment with said City I shall neither instigate, participate in or afford leadership to a strike against said City or engage in any concerted action to withhold my services from the City."

(e) In the event of any strike or concerted action to withhold service from the City of Colorado Springs by an organization or association of employees of the City, by an employee organization, or by employees represented by any such organization or association, the City Council is hereby prohibited from granting any improvement in wages, hours, working conditions or other benefits beyond those in effect or last offered to the striking organization or employees by the City prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the City prior to the strike or concerted activity until the commencement of proceedings to establish wages and benefits for the next subsequent calendar year at the time regularly scheduled for commencement under adopted City policy governing such proceedings.

(f) Notwithstanding any other provision of this Charter, a dismissal imposed pursuant to this section shall not be appealable to the Civil Service Commission, City Manager or the City Council. (1979)

146. *City Attorney, Duties* - The City Attorney shall conduct all cases in court in this state wherein the City shall be party plaintiff or defendant, or a party in interest. He shall be the legal adviser of the Mayor, Council, Commissions, and Heads of Departments in relation to their duties, and shall perform such other duties, not inconsistent herewith, as may be required of him by ordinance. He shall receive such salary as the Council by ordinance shall prescribe. (1909; 1979)

147. *Assistants* -

(a) The City Attorney, with the consent of the Council, may employ assistants, who shall receive such salary as the Council by ordinance shall prescribe.

(b) The Council may also, at any time, employ other counsel, to take charge of any litigation or to assist the Attorney, whose compensation shall be fixed by the Council at the time of employment. (1909; 1979)

ARTICLE XVIII

CIVIL SERVICE

148. *Commission* -

(a) There is hereby established a Civil Service Commission consisting of five (5) members who shall serve without compensation.

(b) The Council first elected after the adoption of this Article, as soon as practicable thereafter, shall appoint two (2) members to said Commission to serve for one (1) year, another two (2) members to serve for two (2) years, and one member to serve for three (3) years. Thereafter, as the initial terms of such appointments expire, Council shall appoint members whose terms shall be for a period of three (3) years. Members of the Civil Service Commission shall be allowed to be appointed for a second consecutive three-year term, but none thereafter. If a vacancy shall occur in the Commission, it shall be filled by appointment by the Council for the unexpired term. (1909; 1979)

149. *Commission Make Rules* - The commission shall, with the approval of the Council, make such rules and regulations for the proper conduct of its business, as it shall find necessary or expedient. The commission shall, among other things, provide for the classifications of all employments in the police and fire departments for open, competitive and free examinations as to fitness; for an eligible list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. (1909; 1979)

150. *Council Give Further Powers* - The Council whenever requested by the commission may by ordinance confer upon the commission such other or further rights, duties and privileges as may be necessary adequately to enforce and carry out the principles of civil service.¹ (1909)

150.1 *Continuation* - All persons at the time of the adoption of this section, occupying positions in the classified civil service, shall retain their positions until discharge under the provisions hereof. Discharges from the classified civil service or reductions in grade or compensation, or both, may be made for any cause, not political or religious, which will promote the efficiency of the service; but only in written specifications by the authority making the discharge or reduction; and the person sought to be discharged or reduced shall have notice thereof, together with a copy of the specifications, and shall be allowed a reasonable time for answering the same in writing. A copy of the specifications, notice and answer and the order of discharge or reduction, shall be made a part of the record of the division of the service in which the

1. A municipal civil service commission cannot exercise any power that is not expressly conferred by the power that created it, nor can it assume an enlarged power by making its own rules. *Bratton v. Dice*, 93 Colo. 593, 27 P.2d 1028 (1933).

discharge or reduction is made, and a copy shall also be filed with the civil service commission. If the person discharged or reduced desires to have such discharge or reduction reviewed by the commission, he may present a sworn petition therefor, whereupon the commission shall examine into the facts at a public hearing, with the right on the part of the person discharged or reduced to appear in person and by counsel, cross-examine such witnesses as may testify against him and produce testimony in his own behalf. If the commission shall find that the person has been wrongfully discharged or reduced he shall be reinstated forthwith. (1921) (Ed. Note: Formerly Section 150.a.)

ARTICLE XIX

GENERAL PROVISIONS

151. *Present Form of Government to Continue* - The form of government existing in the City at the time of adoption of this Charter shall continue unaltered, and all officers and other persons in the service of the City at the time this Charter takes effect shall continue to serve as such and to receive compensation therefor as now provided by law and to have and exercise the powers, authority and jurisdiction theretofore possessed by them respectively. (1909; 1979)

152. (Repealed, 1979)

153. *Present Ordinances Continue in Force* - All laws, ordinances, resolutions, by-laws, orders, rules, or regulations in force in the City at the time this Charter takes effect, and not inconsistent with the provisions of this Charter, shall continue in full force and effect, until the Council otherwise by ordinance, resolution or motion provides. (1909; 1979)

154. (Repealed, 1979)

155. (Repealed, 1979)

156. *Continuing Bonds* - All official bonds, recognizances, obligations, contracts and all other instruments entered into or executed by or to the City before this Charter takes effect, and all taxes, fines, penalties and forfeitures due or owing to the City, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this Charter. (1909)

157. *Submission of Charter Amendments* - Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment measure at any one election. The "Municipal Home Rule Act"¹ as now existing or hereinafter amended, shall govern the submission of Charter amendments. (1909; 1979)

158. *Reservation of Power* - The power to supersede any law of this state, now or hereafter in force, insofar as it applies to local or municipal matters shall be reserved to the City, acting by ordinance. (1909)

1. Colo. Rev. Stat. § 31-2-201 et seq. (1973, as amended).

159. (Repealed, 1979)

160. (Repealed, 1979)

161. *Rules of Construction* - In the construction of the Charter, every word importing only the masculine gender may extend to and be applied to women as well as men. (1920; 1979)

162. (Repealed, 1979)

163. *Conflict Between Measures - Which Adopted* - In case the electors at the election held for the adoption or rejection of this measure are called upon to vote upon any other measure, amendment to the Charter or alternative article or proposition and any other such measure, amendment or alternative article or proposition should be adopted and there should be any conflict between this measure and such other measure, amendment or alternative article or proposition, then the measure, amendment or alternative article or proposition receiving the largest number of votes shall prevail as to such matters wherein there is a conflict, and provided, further, that should there at any future election be submitted different measures, amendments or alternative propositions and more than one be adopted and there be any conflict between the same, then the measure, amendment, alternative article or proposition receiving the largest number of votes shall prevail.¹ (1920; 1979)

164. (Repealed, 1979)

165. *Public Records* - Colorado statutes as now existing or hereinafter amended applying to public records shall apply to the public records of the City. (1979)

166. *Severability of Charter Provisions* - If any provision, section, article or clause of this Charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable. (1979)

167. *Saving Clause* - This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing agreements or contracts between the City of Colorado Springs and individuals, corporations or public agencies. (1979)

168. *Northfield Watershed - Recreational Use* - Upon completion of the enlargement of Northfield Reservoir No. 5 of the municipal water system and the completion and installation of appurtenant recreational facilities by the United States Forest Service, the City Council may allow City-owned land in the Northfield system to be used for recreational purposes and to make such cooperative arrangements as it may deem appropriate with the Forest Service for the development and management of the recreational resources of the reservoir and adjacent lands. (1967) (Ed. Note: Formerly Section 165.)

1. Cf., *In re Interrogatories*, 189 Colo. 1, 536 P.2d 308 (1975); Colo. Rev. Stat. § 1-40-113 (1973).

169. *North Slope Watershed - Recreational Use* - Upon completion of the enlargement of the Northfield Reservoir No. 5 of the municipal water system and the completion and installation of appurtenant recreational facilities by the United States Forest Service in the Northfield area and when recreational use of the City-owned land and adjacent forest reserve land in said Northfield area has been authorized and commenced, and when the water of the North Slope portion of the municipal watershed and water system has been provided with complete filtration and chlorination treatment for all users of domestic water from this watershed and the United States Forest Service agrees to cooperate in the development and use of the North Slope watershed or part thereof for recreational use and all appurtenant facilities including access and service roads, sanitary facilities and parking, recreational and camping areas are provided for such use, the City Council may allow recreational use in such part of the watershed provided that the use is legally allowable and is consistent with the maintenance of proper health, safety, fire protection and conservation standards. (1967) (Ed. Note: Formerly Section 166.)

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PUD - Planned Unit Development

A - Agricultural

R - Estate Residential

R-1 9000 - Single Family Residential

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R-2 - Two-Family Residential

R-4 - Eight-Family Residential

R-5 - Multi-Family Residential

MHP - Mobile Home Park

MHS - Manufactured Home Subdivision

OR - Office Residential

OC - Office Complex

PBC-1 - Planned Business Center

PBC-2 - Planned Business Center

C-5 - Intermediate Business

C-6 - General Business

PIP-1 - Planned Industrial Park

PIP-2 - Planned Industrial Park

M-1 - Light Industrial

M-2 - Heavy Industrial

APD - Airport Planned Development

SU - Special Use

RVP - Recreational Vehicle Park

SP - Special Permit

P - Planned Provisional (Overlay)

NP - Navigation Preservation (Overlay)

HR - High-Rise (Overlay)

FP - Flood Plain (Overlay)

HS - Hillside Area (Overlay)

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PK - Public Parks

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CHAPTER 1 ADMINISTRATION**ARTICLE 1 THE CITY CODE****PART 1 TITLE AND ORGANIZATION OF CODE****SECTION:**

- 1-1-101: Title
- 1-1-102: Numbering System
- 1-1-103: Acceptance of Code

1-1-101: **TITLE:** The ordinances contained in these chapters shall constitute and shall be designated "The Code of the City of Colorado Springs, 1980", and may be so called. Such ordinances may also be cited as "the Colorado Springs Code of 1980".¹ The passage of this Code or portions thereof shall not affect the continuing validity of prior ordinances of the City with which this Code is not in conflict. (1980 Code)

1-1-102: NUMBERING SYSTEM:

- A. Each section number shall consist of three (3) component parts separated by a dash. The first figure shall refer to the chapter number, the second figure shall refer to the article number and the third figure shall refer to the part number and the position of the section within the part.
- B. Any reference made to the number of any section contained herein shall be understood to refer to the position of the same under the appropriate chapter and article heading, and to the general penalty clause relating thereto, as well as the section itself, when reference is made to this Code by title in any legal document. (1980 Code)

1-1-103: **ACCEPTANCE OF CODE:** This Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of general and permanent effect of the City.² (1980 Code)

1. See City Charter, Article III, § 19.

2. Ibid.

CHAPTER 1 ADMINISTRATION

ARTICLE 1 THE CITY CODE

PART 2 RULES OF CONSTRUCTION AND DEFINITIONS

SECTION:

- 1-1-201: Rules of Construction
- 1-1-202: Computation of Time
- 1-1-203: Definitions

1-1-201: RULES OF CONSTRUCTION: In the construction of phrases and terms used in this Code, the following rules shall be observed, unless such construction is excluded by express provision, or is inconsistent with the intent of the Council.

- A. All general terms, phrases and expressions shall be liberally construed in order that the true meaning and intent of the Council may be implemented.
- B. Words in the present tense include the future tense.
- C. Words importing the singular number may extend to several persons and things, and words importing the plural number may include the singular number.
- D. Words importing the masculine or female gender may be applied to the opposite gender as well, and to associations and bodies corporate as well as individuals.
- E. Catchlines, captions, historical notes and source notes are intended as aids in reference and shall not be deemed to be part of this Code or any ordinance constituting a part thereof. (Ord. 84-159; 1980 Code)

1-1-202: COMPUTATION OF TIME:

- A. Subject to subsection B of this Section, the time within which an act is to be done shall be computed by excluding the first and including the last day; provided, however, that if the last

A) day is a Sunday or legal holiday, it shall be excluded.

B. In computing any period of time prescribed or allowed for the transaction of business within a City office, including but not limited to the filing of papers, applying for a license or permit, or similar transaction, such period of time shall be computed by excluding the first and including the last day; provided, however, that if the last day is a Saturday, Sunday or legal holiday it shall be excluded.

C. For the purposes of this Section, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. A half holiday shall not be considered as a legal holiday. (1980 Code)

1-1-203: DEFINITIONS: The following terms, as used in this Code and in all ordinances of the City, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

ATTORNEY: The City Attorney.

AUDITOR: The City Auditor.

CHARTER: The Charter of the City.

CITY: The City of Colorado Springs, Colorado.

CITY COUNCIL or COUNCIL: The elected legislative body of the City.

CLERK: The City Clerk.

CODE or THIS CODE: The Code of ordinances of the City.

COUNTY: The County of El Paso, Colorado.

COURT: Includes courts not of record, as well as courts of record.

C.R.S. or C.R.S. 1973: Colorado Revised Statutes 1973, including all supplements, amendments and replacement volumes, as well as any subsequent recodification, revision or recompilation of the laws of the State of Colorado.

HEREAFTER: Any time after the effective date of this Code.

HERETOFORE: Any time previous to the day when this Code shall take effect.

INCLUDES or INCLUDING: Including but not limited to; it in no way means to exclude.

LAWS AND ORDINANCES NOW IN FORCE: Laws and ordinances in force at the time that the ordinance containing the words takes effect.

MANAGER: The City Manager, Acting City Manager, or Deputy City Manager.

MAYOR: The Mayor or Acting Mayor of the City.

MONTH: A calendar month.

OATH: Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, in which case the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

OFFICE, OFFICER, EMPLOYEE, BOARD, COMMISSION OR DEPARTMENT: An office, officer, employee, board, commission or department of the City.

PERSON: Any individual, firm, company, partnership, association, group or society, including the United States and the State of Colorado, and any agencies, districts, commissions and political subdivisions created by or pursuant to State or Federal law.

PRECEDING, FOLLOWING: Next before and next after, respectively.

PREMISES: A lot, parcel of land, building or establishment, as well as any equipment, appurtenances and personal property which is affixed to or otherwise used on such premises.

PUBLIC PLACE: A place to which the public or a substantial part of the public has access, including highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities.

SIGNATURE: The proper handwriting of a person or his mark.

STATE: The State of Colorado.

TREASURER: The City Treasurer.

WRITING: Any mode of representing words or letters, including printing.

YEAR: A calendar year. (Ord. 86-23; 1968 Code, §1-87; 1980 Code)

CHAPTER 1 ADMINISTRATION

ARTICLE 1 THE CITY CODE

PART 3 SAVING CLAUSE

SECTION:

- 1-1-301: Severability of Parts of Code
- 1-1-302: Effect of Repeal of Ordinances
- 1-1-303: Special Ordinances
- 1-1-304: Offenses Punishable Under Different Ordinances, Election to Proceed

1-1-301: SEVERABILITY OF PARTS OF CODE:

It is hereby declared to be the intention of the City Council that each and every part of this Code is severable, and if any term, phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional or invalid term, phrase, clause, sentence, paragraph or section. (1958 Code §1-9; 1968 Code § 1-90)

1-1-302: EFFECT OF REPEAL OF ORDINANCES:

- A. Whenever any ordinance or part of any ordinance shall be repealed or modified by subsequent ordinance, the ordinance or part of the ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying the same shall take effect, unless therein otherwise expressly provided. (Ord. 730; 1968 Code § 1-88)
- B. When any ordinance repealing any former ordinance, clause or provision shall itself be repealed, such last repeal shall not be construed to revive the former original ordinance, clause or provision, unless therein so expressly provided. (Ord. 730; 1968 Code § 1-91)

- C. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, provision or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed. If any penalty, forfeiture or punishment be mitigated by the provisions of a new ordinance, such provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect. (Ord. 730; 1968 Code § 1-92; 1980 Code)

1-1-303: SPECIAL ORDINANCES: All general ordinances of the City passed prior to the adoption of this Code are hereby repealed, except such as are included in this Code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the City; zoning ordinances; and all special ordinances. (1980 Code)

1-1-304: OFFENSES PUNISHABLE UNDER DIFFERENT ORDINANCES, ELECTION TO PROCEED: In all cases when the same act or offense may be punishable under different ordinances or different clauses of the same ordinance, the Attorney may elect under which of said ordinances or clauses to proceed, but not more than one recovery shall be had against the same person for the same offense. (Ord. 730; 1968 Code § 1-89)

*CHAPTER 1 ADMINISTRATION***ARTICLE 1 THE CITY CODE***PART 4 STATE LAW PROVISIONS***SECTION:**

1-1-401: Statutes of the State of Colorado
Superseded

1-1-402: Specific Statutes Superseded and
Inapplicable

C) ordinances not inconsistent with the laws of
the State of Colorado. (Ord. 2448; 1968 Code
§ 1-86; 1980 Code)

1-1-401: STATUTES OF THE STATE OF COLORADO SUPERSEDED: Any and all laws and statutes of the State of Colorado which limit, restrict, regulate, inhibit, direct or impose conditions and restrictions in the grant of plenary power in local and municipal matters, under Article XX of the Constitution of the State of Colorado, or which limit, restrict, regulate, inhibit, direct or impose conditions and restrictions in the administration and discharge of the functions, powers and rights of the City in local and municipal matters, be and the same hereby are superseded and declared to be not applicable to the said functions, rights and powers of the City in local and municipal matters. Nothing contained elsewhere in this Code and specifically in Section 1-1-402 shall be construed to limit the generality of the foregoing. (Ord. 2448; 1968 Code § 1-85; 1980 Code)

1-1-402: SPECIFIC STATUTES SUPERSEDED AND INAPPLICABLE: The following specific statutes are hereby superseded and declared to be inapplicable in the City in the administration and discharge of the City's functions, rights and powers:

- A. Sections 101 and 102, Article 17, Title 8 of the Colorado Revised Statutes 1973, relating to preference of Colorado labor in public works contracts.
- B. Sections 101, 102 and 103, Article 18, Title 8 of the Colorado Revised Statutes 1973, relating to preference to State production in governmental contracts.
- C. Section 103, Article 15, Title 31 of the Colorado Revised Statutes 1973, relating to making of

CHAPTER 1 ADMINISTRATION
ARTICLE 1 THE CITY CODE
PART 5 THE CORPORATE SEAL¹

SECTION:

1-1-501: Corporate Seal

1-1-501: **CORPORATE SEAL:**² There is hereby established the seal of the City of Colorado Springs, the impression of which is as follows: In the center the words "SEAL, INCORPORATED SEPTEMBER 3, 1872" and around the outer edge, the words "COLORADO SPRINGS, COLORADO", a facsimile of which follows:



(Ord. 210; 1968 Code § 1-103; 1980 Code)

¹. See also Section 1-4-402A, Clerk to be custodian of seal.
². See also City Charter, Article 1, §2(b).

CHAPTER 1 ADMINISTRATION
ARTICLE 1 THE CITY CODE
PART 6 THE OFFICIAL NEWSPAPER

SECTION:

1-1-601: Official City Newspaper

1-1-601: **OFFICIAL CITY NEWSPAPER:** From time to time, and after competitive bids have been received and evaluated, the City Council will designate, by resolution, an official newspaper of the City for such periods as the Council deems appropriate, for publishing ordinances, notices and other legal advertisements of the City; provided, however, this shall not preclude legal publication in an additional newspaper or newspapers if necessary. (Ord. 3306; 1968 Code § 1-105; 1980 Code)

CHAPTER 1 ADMINISTRATION

ARTICLE 2 GENERAL PENALTY

SECTION:

1-2-101: General Penalty

1-2-102: Minor Offenders

1-2-101: GENERAL PENALTY:

- A. Any person who performs or fails to perform an act where such performance or failure to perform is declared in any provision of this Code or any rule or regulation promulgated thereunder to be unlawful or an offense or misdemeanor, or any person who performs an act which is prohibited or fails to perform an act which is required by any provision of this Code or any rule or regulation promulgated thereunder, or any person who fails to meet a standard of conduct or behavior prescribed in any provision of this Code for which no specific penalty is provided, upon conviction thereof shall be punished as provided in subsection B of this Section.
- B. Any person convicted for the violation of any provision of this Code or any rule or regulation promulgated thereunder shall be punished by a fine of not more than five hundred dollars (\$500.00), by imprisonment in jail for a period not exceeding ninety (90) days, or by both such fine and imprisonment, unless otherwise provided.
- C. A separate and distinct offense shall be deemed to have been committed for each day on which any violation of this Code or of any rule or regulation promulgated thereunder shall continue.
- D. The provisions of this Section 1-2-101 shall not be applicable to violations of Chapters 14 and 15 of the Code of the City of Colorado Springs 1980, as amended. (Ord. 4747; Ord. 82-164; Ord. 86-66; 1968 Code § 15-1; 1980 Code)

1-2-102: MINOR OFFENDERS:

- A. For the purposes of this Section, a "Minor Offender" shall be defined as any person accused of an offense contrary to this Code who, on the date of the alleged offense, was at least ten (10) years of age, but had not yet attained the age of eighteen (18) years.
- B. Except as to alleged violations of Chapter 22 of this Code (the Traffic Code of the City of Colorado Springs), any minor offender convicted of a violation of this Code, or any rule or regulation promulgated thereunder, shall be punished by a fine of not more than five hundred dollars (\$500.00), unless provided otherwise by the specific section alleged to have been violated. As to minor offenders alleged to have violated any provision of Chapter 22 of this Code, such persons shall, upon conviction, remain subject to the general penalty provided in Section 1-2-101 of this Code as to any violation of this Code.
- C. Nothing contained herein shall be construed to abrogate, abolish or otherwise limit the power of the Municipal Court set forth in Section 4-3-110 of this Code to punish any person before it for "Contempt of Court", whether by failure to obey a summons, subpoena or other lawful order of the Court, or by personal conduct before the Court. Any person found guilty of such contempt, whether a minor offender or adult, shall be punished as provided in Section 1-2-101 of this Code.
- D. The Presiding Judge of the Municipal Court may promulgate such rules or orders regarding the procedural processing of minor offenders appearing before the Municipal Court as he may, from time to time, deem appropriate. (Ord. 81-70; Ord. 82-164)

CHAPTER 1 ADMINISTRATION

ARTICLE 3 ELECTIVE OFFICERS OF THE CITY

SECTION:

- 1-3-101: Mayor
- 1-3-102: Council Meetings; Regular
- 1-3-103: Council Meetings; Special
- 1-3-104: Council Meetings; Procedure
- 1-3-105: Indemnification

1-3-101: **MAYOR:** In addition to the obligations imposed upon him by the City Charter,¹ the Mayor shall perform such acts as are required by the provisions of the ordinances of the City. (Ord. 730; Ord. 894; 1968 Code § 1-1; 1980 Code)

1-3-102: **COUNCIL MEETINGS; REGULAR:**² The regular meetings of the City Council shall be held on the second and fourth Tuesdays of each month at the hour of nine thirty o'clock (9:30) A.M. (Ord. 2022; 1968 Code § 1-8)

1-3-103: COUNCIL MEETINGS; SPECIAL:

- A. The Mayor may, and upon written request of three (3) Council members shall, call a special meeting of the Council by written notice to each Council member; provided, however, that such notice may be given verbally at a regular meeting of Council to all members present with written notice required to be given only to those members not in attendance.
- B. The notice required by subsection A of this Section shall state the purpose for which the special meeting is called and shall be given at least twenty four (24) hours prior to the time of such meeting. Where such notice is required to be written, it shall be served at least twenty four (24) hours prior to the time of the special meeting, personally, or by leaving the same at the usual place of residence of each Council member served.

- C. Special meetings of the Council may be held at any time whenever all members of the Council and the City Clerk are present, and the Council finds by unanimous vote that it is necessary or expedient to hold a special Council meeting. (Ord. 730; Ord. 894; 1968 Code § 1-9; 1980 Code)

1-3-104: COUNCIL MEETINGS; PROCEDURE:

The Council shall keep a record of its official proceedings, as referred to in Sections 1-3-102 and 1-3-103 of this Article, which record shall be open at all times for inspection. It shall make and enforce rules of proceedings³ and shall, when necessary, compel attendance of absent members. (Ord. 730; Ord. 894)

1-3-105: **INDEMNIFICATION:** All elective officers of the City of Colorado Springs are hereby indemnified and held harmless for conduct within the scope of their elective offices and as ex officio the board of directors of any general improvement district formed pursuant to the Improvement Districts in Municipalities (1949 Act)⁴ as such now exists or may be amended. Elective officers of the City shall have all immunities as provided for in the Colorado Governmental Immunity Act⁵ as well as such other immunities as are established in law.

All provisions contained in Chapter 2 of this Code as such are applied to employees of the City shall apply to elective officers of the City. (Ord. 85-278; Ord. 86-75)

1. See City Charter, Article III, §§ 8 and 13(e).

2. See City Charter, Article III, § 12. For provision stating meeting open to the public, see City Charter, Article III, § 12(d).

3. See City Charter, Article III, § 11.

4. Section 31-25-601 et. seq., C.R.S.

5. Section 24-10-101 et. seq., C.R.S.

CHAPTER 1 ADMINISTRATION

ARTICLE 4 APPOINTIVE OFFICERS OF THE CITY

PART 1 GENERAL PROVISIONS

SECTION:

- 1-4-101: Appointment
- 1-4-102: Bonds
- 1-4-103: Compensation
- 1-4-104: Assistants
- 1-4-105: Deliver Property to Successors

1-4-101: APPOINTMENT: As provided by Charter, the following officers shall be appointed by the City Council: a City Manager, a City Attorney, a City Clerk, a City Treasurer and a City Auditor.¹ (1980 Code)

1-4-102: BONDS:

- A. Each officer appointed by the City Council shall, before entering upon the duties of his office, give a good and sufficient surety company bond to the City. Said bond may be conditioned upon the faithful performance and discharge of each officer's duties and upon proper application and payment of all money or property coming into each officer's possession by virtue of his position. (1980 Code)
- B. Such bond may specifically provide that it shall not cover or protect against the loss of any funds when such loss is occasioned by the failure of any depository in which said funds have been lawfully placed by the officer. (Ord. 1346; 1980 Code)
- C. The amount of such bond or bonds shall be such as Council may determine by resolution. (1980 Code)
- D. The cost of such bond or bonds shall be paid by the City. (Ord. 1356; 1968 Code § 1-99; 1980 Code)

1-4-103: COMPENSATION: Each officer appointed by the City Council shall receive such

salary as the Council shall prescribe by ordinance.² In the case of the City Manager, the City Attorney and the City Auditor, such salary may be apportioned between the general City and the Department of Utilities in such amounts as the Council may determine in the budget and annual appropriation ordinance. (1980 Code)

1-4-104: ASSISTANTS:

- A.
 - 1. The City Manager shall have such deputies as shall be authorized by the annual budget, and who shall perform such duties as he shall direct.
 - 2. The City Manager shall have authority to employ special assistants, with the approval of Council, to advise and assist in the administration of the City.
 - 3. The City Manager shall have the power to appoint all deputy City Managers, assistants to the City Manager, department heads, division heads, office heads, or agency heads. The City Manager may delegate the power of appointment of subordinates to his deputies and department heads.
 - 4. All persons employed by the City who are classified for pay purposes as executives³ and who are employed or are appointed to a different executive position on or after March 5, 1986, shall serve at the pleasure of the City Manager, Deputy City Manager or department head who appointed them and shall be terminable at will, unless otherwise provided for in this Code⁴.
- B.
 - 1. The City Attorney shall have such assistants, both professional and nonprofessional, as shall be authorized by the annual budget and who shall perform such duties as he shall direct. The City Attorney shall be responsible for the professional activities and efficiency of such assistants.
 - 2. The City Attorney shall be empowered to employ special counsel, with approval of the City Council, to counsel, assist or conduct litigation.

1. For provisions relating to the City Manager, see City Charter, Article IV, § 23. For provisions relating to the other officers, see City Charter, Article III, § 7(b).

2. As to all officers except the City Manager, see City Charter, Article III, § 7(b).

3. See §3-1-203 herein.

4. See §2-6-102 and §2-7-102 herein.

- B) 3. The City Council shall have authority to appoint special counsel to investigate the City Attorney or to conduct litigation where the City Attorney may be personally or officially disqualified.
- C. The City Clerk shall have such deputies and assistants as shall be authorized by the annual budget and who shall perform such duties as he shall direct. The Clerk shall be responsible for the fidelity and efficiency of said deputies.
- D. The City Treasurer shall have such deputies and assistants as shall be authorized by the annual budget and who shall perform such duties as he shall direct. The Treasurer shall be responsible for the fidelity and efficiency of said deputies.
- E. The City Auditor shall have such assistants, clerical personnel or use of services of public accounting firms or consultants as shall be authorized by the City Council for the conduct of his office. (Ord. 76-54; Ord. 86-23; 1968 Code § 1-10.3; 1980 Code)

1-4-105: **DELIVER PROPERTY TO SUCCESSORS:** Every person having been an officer of the City shall, at the time his successor in office shall qualify, deliver to such successor all property, bonds and effects of every kind in his possession belonging to the City or appertaining to his office. (1980 Code)

CHAPTER 1 ADMINISTRATION

ARTICLE 4 APPOINTIVE OFFICERS OF THE CITY

PART 2 POWERS AND DUTIES OF THE CITY MANAGER

SECTION:

- 1-4-201: Office of the City Manager
- 1-4-202: Act as Department Head
- 1-4-203: Appoint to Acting Capacity
- 1-4-204: Appoint and Dismiss Staff
- 1-4-205: Overrule Administrative Staff
- 1-4-206: Direct Performance of Work
- 1-4-207: Appoint Administrative Committees
- 1-4-208: Supervise Accounts and Records
- 1-4-209: Require Examination of Records
- 1-4-210: Investigate Operations
- 1-4-211: Adopt Equal Employment Opportunity and Affirmative Action Standards
- 1-4-212: Power to Establish Departments, Divisions, Offices, and Agencies

1-4-201: **OFFICE OF THE CITY MANAGER:**

- A. The City Manager shall be the executive head of the City government, shall enforce the laws of the City, and shall require the faithful performance of the duties of City employees. The City Manager may appoint Deputy City Managers as shall be authorized by the annual budget who shall serve at his pleasure and be terminable at will to act in the capacity as City Manager for the administration of departments, divisions, offices, and agencies assigned to them by the City Manager.
- B. Deputy City Manager/Director of Utilities: The Director of Utilities is hereby designated a Deputy City Manager. His duties and responsibilities are as set out in the Charter, City Code, Ordinances, Resolutions, and regulations.
- C. Deputy City Manager Administrative Services: If budgeted, there shall be a Deputy City Manager Administrative Services who shall be responsible to the City Manager for the operation and administration of the departments, divisions, offices and agencies as are assigned to him by the City Manager from time to time.

- D. Deputy City Manager Community Services: If budgeted there shall be a Deputy City Manager Community Services who shall be responsible to the City Manager for the operation and administration of the departments, divisions, offices, or agencies as are assigned to him by the City Manager from time to time. (Ord. 86-23)

1-4-202: **ACT AS DEPARTMENT HEAD:** The City Manager shall have and exercise the power and authority to perform the duties of the director or head of any department given or prescribed by this Code or by any ordinance, resolution or contract of the City. (Ord. 1104; 1968 Code § 1-3; 1980 Code)

1-4-203: **APPOINT TO ACTING CAPACITY:** The City Manager shall have the power to designate himself or some other staff member or employee to perform the duties of any position under his control which is vacant or which lacks administration owing to the absence or disability of the incumbent. Such person shall be designated a deputy or acting department head and shall serve with the same powers and functions as the department head. (1980 Code)

1-4-204: **APPOINT AND DISMISS STAFF:** The City Manager shall appoint competent, qualified staff and employees and shall have the power to dismiss, suspend and discipline, in accordance with the Charter and this Code, all staff members and employees under his control. He shall also have the power to authorize a department head or staff member responsible to him to appoint and remove subordinates serving under that department head or staff member. (1980 Code)

1-4-205: **OVERRIDE ADMINISTRATIVE STAFF:** The City Manager shall have the power to set aside any action taken by the department head and, except for those positions

appointed by the City Council pursuant to the Charter, may supersede any department head in the functions of his position. (1980 Code)

1-4-206: DIRECT PERFORMANCE OF WORK:

The City Manager shall have the power to direct any department, division, agency, bureau or office to perform work for any other department, division, agency, bureau or office. (1980 Code)

1-4-207: APPOINT ADMINISTRATIVE COMMITTEES:

The City Manager shall have the power to designate such committees and the officers thereof as he shall find necessary for the proper consideration of administrative problems. Such committee shall meet at the direction of the City Manager and shall make such recommendations on matters referred to it as the committee shall find necessary for the best interests of the City. (1980 Code)

1-4-208: SUPERVISE ACCOUNTS AND RECORDS:

The City Manager shall have charge and supervision over all accounts and records of the City, and all boards or departments required to keep or make accounts. He shall inspect or cause to be inspected all records or accounts required to be kept in any of the offices or departments of the City, and he shall cause proper accounts and records to be kept and proper reports to be made. (Ord. 76-54; 1968 Code § 1-5)

1-4-209: REQUIRE EXAMINATION OF RECORDS:

The City Manager shall examine, or cause to be examined, the books and affairs of any person, persons or corporations operating public service utilities which are required by law, by Charter or by ordinance to make reports to the City or any of its officers, and he shall cause to be collected all franchise taxes, rental or other moneys which may be due or become due to the City from public utility corporations. He shall report to the Council any refusal to permit such examination, with such recommendations in relation thereto as he may deem proper. (Ord. 76-54; 1968 Code § 1-5)

1-4-210: INVESTIGATE OPERATIONS: The City Manager shall have the power, either by himself or by any person designated for the purpose by him, to investigate and examine or inquire

into the affairs or operations of any department, division, bureau, agency or office of the City; and when so authorized by the Council, he shall have power to employ consultants and professional counsel to aid in such investigations, examinations or inquiries. (1980 Code)

1-4-211: ADOPT EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION STANDARDS:

A. The City Manager shall adopt rules and regulations consistent with the terms of:

1. Titles VI and VII of the Civil Rights Act of 1964, 42 USC sections 2000d et seq., 2000e et seq.;

2. The Intergovernmental Personnel Act of 1970, 5 USC sections 1304, 3371 et seq.; 42 USC section 4701 et seq.;

3. The Age Discrimination in Employment Act of 1967, 29 USC section 621 et seq.;

4. Executive Orders 11246 (September 24, 1964), 11375 (October 13, 1967) and 11625 (October 13, 1971), and such other Federal and/or State statutes, executive orders and rules and regulations passed, issued and promulgated to prohibit employment discrimination and to ensure equal employment opportunity.

B. Rules and regulations adopted by the City Manager, or his designee, shall be applicable to all contractors and subcontractors of the City employing more than fifteen (15) employees whether or not Federal contract money or assistance is involved. An affirmative action administrator for the City shall be directly responsible to the City Manager, or his designee, and shall have the primary responsibility for insuring that contractors who are awarded contracts by the City meet all applicable rules and regulations of the City as well as all applicable equal employment opportunity requirements of Federal contracts with the City. (Ord. 76-56; Ord. 86-23; 1968 Code § 1-5.1)

1-4-212: POWER TO ESTABLISH DEPARTMENTS, DIVISIONS, OFFICES, AND AGENCIES: In accordance with Section 25 of the City Charter the City Council hereby directs the

City Manager to establish such departments, divisions, offices, or agencies, in addition to those created by the Charter, as he deems necessary for the efficient administration of the City government and directs him to prescribe the functions of all departments, divisions, offices, and agencies, except that no function assigned by the Charter to a particular department, division, office, or agency may be discontinued, or unless the Charter specifically so provides, assigned to any other department. The City Manager shall each year in conjunction with submitting to the City Council his estimate of expenses and revenues, submit his administrative organization chart which shall show those positions directly reporting to him. The City Manager shall also promulgate or cause to be promulgated as he deems necessary the duties and functions of the departments, divisions, offices, or agencies within the City. (Ord. 86-23)

CHAPTER 1 ADMINISTRATION

ARTICLE 4 APPOINTIVE OFFICERS OF THE CITY

PART 3 POWERS AND DUTIES OF THE CITY ATTORNEY

SECTION:

- 1-4-301: Office of the City Attorney
- 1-4-302: Act as Legal Adviser
- 1-4-303: Prepare and Enforce Ordinances
- 1-4-304: Approve Contracts
- 1-4-305: Represent the City
- 1-4-306: Settle Claims
- 1-4-307: Make Reports
- 1-4-308: Keep Records

1-4-301: OFFICE OF THE CITY ATTORNEY: In addition to the obligations imposed upon him in the Charter,¹ the City Attorney shall have the powers and perform the duties set out in this Part 3. (1980 Code)

1-4-302: ACT AS LEGAL ADVISER: The City Attorney shall advise the Council, its committees, boards and commissions, or any staff member upon all legal questions arising in the conduct of City business. He shall give his opinion upon any legal matter or question submitted to him by Council, or any of its members or by any board or commission of the City, or by any staff member. (Ord. 2285; 1968 Code § 1-15; 1980 Code)

1-4-303: PREPARE AND ENFORCE ORDINANCES: The City Attorney shall prepare or revise ordinances when so requested by the Council or any member thereof or by the City Manager. He shall institute actions in case of violation of any Charter provision or ordinance when so directed by the Council or by the Manager, and he shall prosecute all actions in the Municipal Court. (Ord. 2285; 1968 Code § 1-15; 1980 Code)

1-4-304: APPROVE CONTRACTS: The City Attorney shall approve as to form all contracts, deeds and leases to which the City is a party. He shall approve as to form all surety documents and insurance policies required as a condition of the issuance of any license or permit by the City. (1980 Code)

1-4-305: REPRESENT THE CITY: The City Attorney shall represent the City in all adversary actions in any State or Federal court or actions before State and Federal administrative agencies in which the City or any board, commission or authority thereof is a party. When directed by resolution of the City Council, the City Attorney shall represent any Council member, staff member, or City employee in litigation resulting from the conduct in good faith of the alleged duties and functions of that person. (Ord. 2285; 1968 Code § 1-15; 1980 Code)

1-4-306: SETTLE CLAIMS: Subject to the requirements of Part 2 of Article 8, Chapter 2 of the Code of the City of Colorado Springs 1980, as amended, the City Attorney shall have the power to adjust, settle, compromise or submit to arbitration, any action, accounts, debts, claims, demands, disputes, and matters in favor of or against the City or in which the City is concerned as debtor or creditor, now existing or which may hereafter arise, not involving or requiring payment to exceed twenty five thousand dollars (\$25,000.00) and with the permission of the Claims Review Board may do likewise in matters not involving or requiring payment to exceed seventy five thousand dollars (\$75,000.00) provided the money to settle claims generally has been appropriated and is available therefor. (Ord. 4662; Ord. 85-273; 1968 Code § 1-93; 1980 Code)

1-4-307: MAKE REPORTS: The City Attorney shall immediately report to the Manager and Council the outcome of any litigation and similar legal matters in which the City has an interest and he shall submit his recommendations as to appeal, payment or other disposition in the event of judgment adverse to the City. From time to time he shall report to the Manager and Council all litigation and similar legal matters in which the City has an interest and the condition thereof. (Ord. 2285; 1968 Code § 1-15; 1980 Code)

1-4-308: KEEP RECORDS: The City Attorney shall keep proper records of all actions in courts of record prosecuted or defended by his office and the proceedings had therein and of all written opinions furnished by him. (Ord. 2285; 1968 Code § 1-15; 1980 Code)

¹. See City Charter, Article XVII, § 146.

CHAPTER 1 ADMINISTRATION

ARTICLE 4 APPOINTIVE OFFICERS OF THE CITY

PART 5 POWERS AND DUTIES OF THE CITY TREASURER¹

SECTION:

- 1-4-501: Office of the City Treasurer
- 1-4-502: Receive Moneys
- 1-4-503: Report to City Controller
- 1-4-504: Keep Books of Account

and files of the office of the Treasurer shall be at all times open to the examination of the Manager, the Director of Finance and Management Services, the City Auditor, the City Controller, or any member of the Council. (Ord. 730; Ord. 894; 1968 Code § 3-8; 1980 Code)

1-4-501: **OFFICE OF THE CITY TREASURER:**

In addition to the obligations imposed upon him by law, the City Treasurer shall have the powers and perform the duties set out in this Part 5. (1980 Code)

- 1-4-502: **RECEIVE MONEYS:** The City Treasurer shall receive all moneys belonging to the City. (Ord. 730; Ord. 894; 1968 Code § 3-8)

1-4-503: **REPORT TO CITY CONTROLLER:**

The City Treasurer shall render to the City Controller a daily statement, setting forth all moneys received by him and on what account they have been received, and from time to time, not less than monthly, he shall report to the City Controller all moneys paid out by him and on what account they have been paid. The monthly report required by law to be made to the Council shall show the name of the bank where any moneys of the City are deposited, the sum of money on deposit in each bank at the date of such report, the interest paid or credited thereon by each bank, and the rate of interest so paid or credited. (Ord. 730; Ord. 894; 1968 Code § 3-8; 1980 Code)

- 1-4-504: **KEEP BOOKS OF ACCOUNT:** He shall keep or cause to be kept books of account in such manner as to show with entire accuracy all moneys received by him and from whom and on what account they have been received, and all moneys paid out by him and to whom and on what account they have been paid, and in such manner that such books may be readily understood and investigated. Such books and all the papers

1. The office of the City Clerk and the City Treasurer are currently held by one person. See City Charter, Article III, § 7(b).

CHAPTER 1 ADMINISTRATION

ARTICLE 4 APPOINTIVE OFFICERS OF THE CITY

PART 6 POWERS AND DUTIES OF THE CITY AUDITOR

SECTION:

- 1-4-601: Office of the City Auditor
- 1-4-602: Maintain Independence
- 1-4-603: Ensure Public Accountability
- 1-4-604: Perform Post-Audit
- 1-4-605: Determine Effectiveness and Efficiency of Programs
- 1-4-606: Examine Books, Records
- 1-4-607: Cooperate With City Administration and City Council
- 1-4-608: Monitor Financial Reports
- 1-4-609: Make Periodic Reports to Council
- 1-4-610: Administer Oaths
- 1-4-611: Seek Equitable Relief

1-4-601: **OFFICE OF THE CITY AUDITOR:** In addition to the obligations imposed upon him by law, the City Auditor shall have the powers and perform the duties set out in this Part 6. (1980 Code)

1-4-602: MAINTAIN INDEPENDENCE:

- A. The City Auditor shall not serve in any capacity on any administrative board, commission, district or agency of the city, County or the State unless authorized to so by the City Council, nor shall he have a direct or indirect financial or other economic interest in the transactions of any office, department, board, commission, district or other organization for which he is responsible to audit or cause to be audited. (Ord. 76-54; Ord. 80-107)
- B. The City Auditor shall not be responsible for the collection of any money belonging to the City, or other political subdivision thereof or for the handling or custody of City or other political subdivision funds.
- C. The City Auditor shall not be assigned any administrative duties excepting such as may be incidental to the objectives and functions of

C) post-auditing or which do not impair the City Auditor's independence. (Ord. 76-54; 1968 Code § 1-10.2)

1-4-603: **ENSURE PUBLIC ACCOUNTABILITY:** The City Auditor shall ensure that administrative officials are held publicly accountable for their use of public funds and other resources at their disposal. He shall investigate whether or not laws are being administered in the public interest, determine if there have been abuses of discretion, arbitrary actions or errors of judgment, and he shall encourage diligence on the part of administrative officials. (Ord. 76-54; 1968 Code § 1-10.3; 1980 Code)

1-4-604: **PERFORM POST-AUDIT:** The City Auditor shall perform a current post-audit of the financial operation of the City government, and he shall devote his full time and effort to post-audit examinations and reporting. He shall submit to Council reports resulting from such periodical audit of each department or account. The Auditor shall have access to the books and accounts of all City departments, administrative officials or employees charged with the receipt, custody or safekeeping of public funds. (Ord. 76-54; 1968 Code §§ 1-10.1, 1-10.2, 1-10.3)

1-4-605: **DETERMINE EFFECTIVENESS AND EFFICIENCY OF PROGRAMS:** The City Auditor shall determine the extent to which legislative policies are being efficiently and effectively implemented by administrative officials. He shall determine whether City programs are achieving desired objectives. He shall review the administrative control systems established by agency or department heads and by the City Manager and determine whether such control systems are adequate and effective in accomplishing their objectives. (Ord. 76-54; 1968 Code; 1-10.3)

1-4-606: **EXAMINE BOOKS, RECORDS:** He shall examine and inspect all books,

records, files, papers, documents and information stored on computer records or in other files or records relating to all financial affairs of every office and department, political subdivision and organization which receives funds from the City. The Auditor may require any person to appear before him at any time upon proper notice and to produce any accounts, books, records, files and papers pertaining to the receipt or expenditure of City funds, whether general or special. If such person fails to produce the aforementioned papers, then the Auditor may request Council approval to search for and take any book, paper or record in the custody of any such person or public official. (Ord. 76-54; 1968 Code § 1-10.3)

1-4-607: COOPERATE WITH CITY ADMINISTRATION AND CITY COUNCIL:

- A. The City Auditor shall confer and consult with the City administration on matters relating to financial practices and the implementation of City programs and operations.
- B. He shall furnish information to Council whenever required upon any subject relating to the financial affairs of the City. (Ord. 76-54; 1968 Code § 1-10.1)

1-4-608: MONITOR FINANCIAL REPORTS:
The City Auditor shall monitor all financial reports to ensure that they are being prepared in a timely manner. (Ord. 76-54; 1968 Code § 1-10.1; 1980 Code)

1-4-609: MAKE PERIODIC REPORTS TO COUNCIL: The City Auditor shall make periodic reports to Council which shall include but shall not be limited to, the following:

- A. Whether departments, administrative officials and employees, in making expenditures, have complied with the Charter and the will of the Council as expressed in this Code and other formal actions of the Council;
- B. Information of proposals which he deems expedient in support of the City's credit, and recommendations for lessening expenditures, for promoting frugality and economy in City affairs and for an improved level of fiscal management;

- C. Matters concerning the effectiveness and efficiency of the programs and operation of the City;
- D. Objections to improper specific expenditures incurred by any department or person;
- E. Any irregularities which, in the judgment of the City Auditor, are significant. (Ord. 76-54; 1968 Code § 1-10.3)

1-4-610: ADMINISTER OATHS: The Auditor is empowered to administer oaths and may question any person under oath concerning all other things and matters necessary for the due execution of the duties vested in him by this Part 6. (Ord. 76-54; 1968 Code § 1-10.3; 1980 Code)

1-4-611: SEEK EQUITABLE RELIEF:
Notwithstanding the existence of any other remedy, the City Auditor may seek regular or equitable relief to enjoin any acts or practices and abate any conditions which constitute a violation of this Code or other regulations adopted by the City Council. (Ord. 76-54; 1968 Code § 1-10.3; 1980 Code)

CHAPTER 1 ADMINISTRATION
ARTICLE 5 BOARDS AND COMMISSIONS¹

SECTION:

- 1-5-101: Appointment to Boards and Commissions
1-5-102: Vacation of Office

1-5-101: APPOINTMENT TO BOARDS AND COMMISSIONS:

- A. The Council shall have authority to appoint and fix the terms of office of members of all boards and commissions of the City; provided, however, that all such terms shall be for a period of three (3) years unless Council specifically determines that a lesser term is desired by reason of special circumstances.
- B. This Section shall not apply to terms of office set by the Charter, by vote of the City electorate, or by general law which reserves the appointment authority from the Council. (Ord. 3605; 1968 Code § 1-143; 1980 Code)

1-5-102: VACATION OF OFFICE: Any member of any board or commission established by ordinance who is absent in any twelve (12) month period from forty percent (40%) or more of the regularly scheduled meetings of the board or commission to which he has been appointed shall automatically be dropped as a member of that board or commission for the remainder of his term and a new member shall be appointed forthwith by the City Council to fill said vacancy; provided, that no member shall be dropped who in the opinion of the Council has good cause for failing to be present at said meetings. (Ord. 74-58; 1968 Code § 1-150)

1. For additional provisions, see City Charter, Article X, § 55.

CHAPTER 2
ADMINISTRATIVE DEPARTMENTS

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CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 1 DEPARTMENT OF FINANCE¹

PART 1 ORGANIZATION

SECTION:

- 2-1-101: Department Established
- 2-1-102: Scope of Department
- 2-1-103: Duties of Director
- 2-1-104: Rules and Regulations
- 2-1-105: Officers and Employees

2-1-101: DEPARTMENT ESTABLISHED: There is hereby established the Department of Finance,² which shall be under the supervision of a Director appointed by the City Manager.³ (Ord. 86-23; 1980 Code)

2-1-102: SCOPE OF DEPARTMENT: The Department of Finance shall have the supervision and control over the operations of the General City Controller's office and Utilities Department Controller's office, and such other departments, divisions, offices, or agencies as may be assigned by the City Manager. (Ord. 86-23)

2-1-103: DUTIES OF DIRECTOR: In addition to the obligations imposed on him by the City Manager, the Director shall perform the following duties:

- A. As the principal financial officer of the City, he shall be responsible for coordinating and supervising the financing activities of the City. Such duties shall include but shall not be limited to making recommendations in regard to the necessity for external financing and the form and structure of such financing. The Director may employ outside financial advisors when he deems it necessary for the proper performance of his duties.
- B. He shall have charge and supervision over all accounts and records of the City, including those

B) accounts and records of the Utilities Department, and the accounts and records of all boards or departments required to keep or make accounts. He shall inspect or cause to be inspected all records or accounts required to be kept in any of the offices or departments of the City, and he shall cause proper accounts and records to be kept and proper reports to be made.

C. He shall provide financial services to the City Manager and the various departments, divisions, offices, and agencies as the City Manager shall direct in writing, including but not limited to assistance in the preparation and analysis of the budget.

D. He shall furnish or cause to be furnished the City Manager such statements and information concerning the financial condition of the City as the City Manager may require in order to enable him to comply with the provisions of the City Charter relating to annual appropriation estimates.⁴ Included in such statements of information shall be a summary of any irregularities discovered by inspection and examination of the finances of the City. (Ord. 76-54; Ord. 86-23; 1968 Code § 3-3 E, H; 1980 Code)

2-1-104: RULES AND REGULATIONS: The Director of the Department of Finance is authorized to promulgate rules and regulations consistent with the provisions of this Code for the administration of the Department, which rules and regulations shall be subject to approval by the City Manager. (Ord. 86-23; 1980 Code)

2-1-105: OFFICERS AND EMPLOYEES:

- A. The City Clerk and the City Treasurer and their respective offices or divisions, and all employees therein, are hereby assigned to the

1. See also Chapter 6 of this Code. Note that the terms "Department of Finance and Management Services," and "Director of Finance and Management Services" as such appear in the Code of the City of Colorado Springs 1980, as amended, are hereby amended to read "Department of Finance" and "Director of Finance".

2. For authority to establish Department, see City Charter, Article V, § 25.

3. See City Charter, Article V, § 26.

4. See City Charter, Article VII, §§ 39-40.

- A) Department of Finance. Although the City Clerk and City Treasurer are appointed by the City Council, such persons shall report to and be supervised by the Director of Finance in the activities of their respective offices and all divisions thereunder.¹
- B. The City Controller and the Controller of the Utilities Department, and their respective offices, and all employees therein are assigned to the Department of Finance, and shall be under the general supervision of the Director of the Department. (Ord. 76-54; Ord. 86-23; 1968 Code § 3-1; 1980 Code)

1. For powers and duties of the City Clerk and City Treasurer, see Chapter 1, Article 4, Parts 4 and 5 respectively of this Code.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 1 DEPARTMENT OF FINANCE AND MANAGEMENT SERVICES

PART 2 THE CITY CONTROLLER

SECTION:

- 2-1-201: Appointment, Bond
 2-1-202: Deliver Property to Successor
 2-1-203: Duties and Functions

2-1-201: **APPOINTMENT, BOND:** The City Controller shall be appointed by the City Manager. He shall be bonded in a surety company for the faithful performance of his duties in such sums as shall be fixed by the Council.¹ (Ord. 76-54; 1968 Code § 3-2)

2-1-202: **DELIVER PROPERTY TO SUCCESSOR:** In the event of his resignation or removal, it shall be the duty of the Controller, on demand, to deliver to his successor or to the Director of Finance and Management Services, all property and things of which he is custodian or controller. (Ord. 76-54; 1968 Code § 3-2)

2-1-203: **DUTIES AND FUNCTIONS:** In addition to the duties imposed upon him by law, and those required by the Director of Finance and Management Services or the City Manager, the City Controller shall perform the following duties:

- A. **Audit Claims.** Audit all claims against the City and accounts or amounts paid by the City. Either he or the head of the proper department, or the City Council, may require any claimant to file with the Controller a statement in writing under oath as to any fact, matter or thing concerning the correctness of any account, claim or demand presented.²
- B. **Keep Records.** Keep in a clear, methodical manner, a complete set of books, in which shall be stated among other things, the appropriations of the year for each distinct object and branch of expenditure, and also the

- B) receipts from each and every source of revenue.
- C. **Receive Payments and Statements.** Receive from all officers or employees of the City a statement or duplicate receipt showing the amount of payments of money received or collected by such officers or employees and required to be paid to the City Treasurer.
- D. **Make Annual Financial Report.** Make an annual financial report at the conclusion of the independent audit and at a date no later than that prescribed by State law.³ This report shall provide full and detailed statements of all receipts and expenditures during the preceding fiscal year. Such statement shall detail the liabilities and resources of the City, and all other things necessary to exhibit its true financial condition. Such statement when examined and approved by the City Manager shall be printed or published as the City Manager may direct.
- E. **Provide Monthly Statements.** Provide a monthly statement, on or before the fifteenth day of each and every calendar month, showing the revenues and expenditures for the preceding month, expenditures made under the appropriations by the Council, and the balance of the appropriations unexpended.
- F. **Supervise Accounting Systems.** Have charge and supervision of the accounting systems of the City and each of its departments, including the installation, maintenance and operation of those systems.
- G. **Have Custody of Moneys, Books.** Have custody of all money, books, property or other things belonging to or under the control of the City in the office of the Controller. (Ord. 76-54; 1968 Code §§ 3-2, 3-3)

1. See also, Section 3-1-103 of this Code.

2. Ed. Note: The Colorado Governmental Immunity Act, C.R.S. 1973 §§ 24-10-101 et seq., as amended, requires a claimant in actions other than contract to notify a public entity of his claim within 180 days of the discovery of the injury giving rise to the claim. C.R.S. 1973 § 24-10-109, as amended S.B. 101 (1979).

3. C.R.S. 1973 § 31-20-304.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 2 DEPARTMENT OF UTILITIES¹

SECTION:

- 2-2-101: Scope of Department
- 2-2-102: Duties of Director
- 2-2-103: Rules and Regulations
- 2-2-104: Managers of Divisions

2-2-101: **SCOPE OF DEPARTMENT:**² The Department of Utilities shall include the Electric Division, the Gas Division, the Water Division and the Wastewater Division. Each division shall, as far as practicable, be administered as an entity.³ All revenues of each division shall be placed in the Department of Utilities Gross Income Fund, from which all operating and maintenance expenses shall be deducted. (1980 Code)

2-2-102: **DUTIES OF DIRECTOR:** There is hereby created the office of Director of the Department of Utilities. The Director shall be appointed by the City Manager and shall be the chief administrative officer of the Department. The Director shall supervise the operations of the Department and shall ensure that the functions of the Department are being effectively and efficiently performed. (1980 Code)

2-2-103: **RULES AND REGULATIONS:** The Director of Utilities is authorized to promulgate rules and regulations consistent with the provisions of this Code for the administration of the Department, which rules and regulations shall be subject to approval by the City Manager. (1980 Code)

2-2-104: **MANAGERS OF DIVISIONS:** Each division of the Department of Utilities shall be administered and operated by a manager(s), who shall be appointed by the City Manager or his designated representative.⁴ Each manager shall perform such functions and possess such powers, duties and responsibilities as may be designated by the Director or provided elsewhere in this Code. (1980 Code)

1. See also Chapter 12 of this Code.

2. For creation, powers and limitations of the Department, see City Charter, Article VI.

3. For authority to establish such divisions, see City Charter, Article VI, § 32(c).

4. The Director of Utilities has been designated the "appointing authority" for the Department of Utilities. See City Manager's memorandum of May 2, 1979.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS
ARTICLE 3 DEPARTMENT OF PARKS AND RECREATION¹

SECTION:

- 2-3-101: Department Established
- 2-3-102: Scope of Department
- 2-3-103: Duties of Director
- 2-3-104: Rules and Regulations

2-3-101: **DEPARTMENT ESTABLISHED:** There is hereby established the Department of Parks and Recreation of the City,² which shall be under the supervision of a Director appointed by the City Manager.³ (1980 Code)

2-3-102: **SCOPE OF DEPARTMENT:** The Department of Parks and Recreation shall have control, management and supervision of all public parks of the City, including Patty Jewett Municipal Golf Course, Valley-Hi Golf Course, and the Pioneer's Museum.⁴ The Department shall provide a comprehensive program of leisure recreational activities. (Ord. 4716; Ord. 86-23; 1968 Code § 10-1; 1980 Code)

2-3-103: **DUTIES OF DIRECTOR:** The Director of the Department of Parks and Recreation shall have control, management and supervision over all matters pertaining to the maintenance, upkeep, care, use, development, planning and beautification of the parks of the City. (Ord. 4716; 1968 Code § 10-3)

2-3-104: **RULES AND REGULATIONS:** The Director of the Department of Parks and Recreation is authorized to promulgate rules and regulations pertaining to parks, the behavior and conduct of persons within the parks, and the operations of the Department under Chapter 18 of this Code. (Ord. 4716; 1968 Code § 10-3)

1. See also Chapter 18 of this Code.

2. For authority to establish Department, see City Charter, Article VI, § 25.

3. See City Charter, Article V, § 26.

4. See §19-10-101 et. seq. herein.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 4 DEPARTMENT OF PUBLIC WORKS¹

SECTION:

- 2-4-101: Department Established
- 2-4-102: Scope of Department
- 2-4-103: Duties of the Director
- 2-4-104: Rules and Regulations

- D. Have control, management and direction of the cleaning and the lighting of the streets and alleys, of public grounds and buildings not otherwise assigned, and of all lamps, lights, lighting material and persons charged with the care thereof. (Ord. 76-54; 1968 Code § 12-1)

2-4-101: **DEPARTMENT ESTABLISHED:** There is hereby established the Department of Public Works,² which shall be under the supervision of a Director appointed by the City Manager.³ (1980 Code)

2-4-104: **RULES AND REGULATIONS:** The Director of Public Works is authorized to promulgate rules and regulations consistent with the provisions of this Code for the administration of the Department, which rules and regulations shall be subject to approval by the City Manager. (1980 Code)

2-4-102: **SCOPE OF DEPARTMENT:** The Department of Public Works shall have overall supervision and control over the Public Works Divisions, including Engineering, Streets, Traffic Engineering, Mass Transit, Airport, Pikes Peak Highway, Public Buildings, Equipment Pool and Cemeteries, and such other divisions as may be assigned by the City Manager. (1980 Code)

2-4-103: **DUTIES OF THE DIRECTOR:** In addition to the duties imposed upon him by the City Manager, the Director of Public Works shall:

- A. Have the supervision and control of all streets, public works, ways, buildings and improvements of the City, except where otherwise provided by ordinance.
- B. Supervise and take charge of all public work, including the entire erection, making and reconstruction of all street improvements, sidewalks, bridges, viaducts and public buildings and other improvements, and repairs thereof, where not otherwise assigned.
- C. Approve the estimates of the City Engineer, which may be made from time to time, of the cost of such work, as the same progresses, and accept any building erected, work done or improvement made when completed according to contract.

1. See also Chapter 19 of this Code.

2. For authority to establish Department, see City Charter, Article V, § 25.

3. See City Charter, Article V, § 26.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 5 DEPARTMENT OF COMMUNITY DEVELOPMENT

PART 1 ORGANIZATION

SECTION:

- 2-5-101: Department Established
- 2-5-102: Scope of Department
- 2-5-103: Duties of the Director
- 2-5-104: Rules and Regulations

2-5-104: RULES AND REGULATIONS: The Director of Community Development is authorized to promulgate rules and regulations consistent with the provisions of this Code for the administration of the Department, which rules and regulations shall be subject to approval by the City Manager. (1980 Code)

2-5-101: DEPARTMENT ESTABLISHED: There is hereby established the Department of Community Development,¹ which shall be under the supervision of a Director appointed by the City Manager.² (1980 Code)

2-5-102: SCOPE OF DEPARTMENT: The Department of Community Development shall be responsible for the planning and implementation of current and future programs for land use, inner-city redevelopment, manpower service programs and human relations. It shall have overall supervision and control over the Community Development divisions, including Redevelopment, the Comprehensive Employment and Training Program, City Planning, Relocation and Human Relations. The Department shall also provide administrative support to and coordination between the City and the Urban Renewal Authority, Housing Authority, and the Housing Code Enforcement Division of the El Paso County Health Department. The Department shall ensure that all City, State and Federal funds received by the Department are being effectively and properly utilized. (1980 Code)

2-5-103: DUTIES OF THE DIRECTOR: The Director of the Department of Community Development shall be the chief administrative officer of the Department. The Director shall supervise the operations of the Department and shall ensure that the functions of the Department are being effectively and efficiently performed. The Director shall have the authority to appoint a Hearing Officer pursuant to Section 14-18-101, et. seq., subject to the consent of the City Council. (Ord. 84-159; 1980 Code)

1. For authority to establish Department, see City Charter, Article V, § 25.

2. See City Charter, Article V, § 26.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS
ARTICLE 5 DEPARTMENT OF COMMUNITY DEVELOPMENT
PART 2 COMMUNITY DEVELOPMENT ADVISORY BOARD

SECTION:

2-5-201: Board Created
 2-5-202: Membership; Composition
 2-5-203: Membership; Terms of
 2-5-204: Functions of the Board
 2-5-205: Records
 2-5-206: Subcommittees

2-5-201: **BOARD CREATED:** There is hereby created the Community Development Advisory Board,¹ which shall consist of such members as the City Council shall by resolution appoint. (Ord. 83-27)

2-5-202: **MEMBERSHIP; COMPOSITION:**

A. The Advisory Board.

1. Organizations. The Advisory Board, with the exception of the Shooks Run and West Side neighborhood strategy areas, shall be comprised of one representative from the following organizations or neighborhood strategy areas:

Community Development Department
 Colorado Springs Homebuilders Association
 Colorado Springs Board of Realtors
 Federally-chartered savings and loan association
 State-chartered savings and loan association
 Chamber of Commerce Economic Development Committee
 Building Construction Trades Council
 School District No. 11
 State-chartered or Federal Credit Unions
 Each neighborhood strategy area
 State-chartered commercial bank
 Federally-chartered commercial bank

A) With respect to incorporated redevelopment neighborhood groups from each neighborhood strategy area funded by the Community Development Department, there shall be one representative from each neighborhood strategy area, except that the Shooks Run and West Side neighborhood strategy areas shall have two (2) representatives until those respective projects are determined by City Council to be substantially completed. With respect to representatives from all neighborhood strategy areas, their positions on the Board shall expire at the end of their term or the completion of the project which they represent, whichever occurs first.

2. Individuals. In addition, three (3) citizens from the City at large shall be members of the Board. None of the three (3) at-large members shall live or own property in any of the City's neighborhood strategy areas.

B. The Board shall have the power to promulgate its own bylaws and rules and procedures.

C. An effort shall be made to have a representative mix of members of the Board from differing racial and economic backgrounds. (Ord. 83-27)

2-5-203: **MEMBERSHIP; TERMS OF:**

Appointments to the Board shall be made in such manner as to achieve staggered terms, with approximately one-third (1/3) of the Board membership being replaced or reappointed each year. Any member of the Board, subject to limitations set forth in Section 2-5-202A1 of this Part 2, upon application therefor, may be reappointed to succeed himself, subject to existing City Council policies with respect to reappointments to City Boards and Commissions. An appointment to fill a vacancy shall be for the unexpired term. The Director of Community Development shall be a permanent member of the Board. (Ord. 83-27)

1. For authority to create Board, see City Charter, Article X, § 55(a).

2-5-204: **FUNCTIONS OF THE BOARD:** The Board shall act in an advisory capacity to the City Council regarding the following matters relating to redevelopment program planning. In this regard, the Board may:

- A. Review proposed urban redevelopment programs for the purpose of defining innovative financing mechanisms designed to leverage public funds;
- B. Identify strategies to encourage private participation in all phases of the economic redevelopment of the inner-City;
- C. Inform the local, financial, real estate and land development industry of the profit-making opportunities possible in urban redevelopment; and
- D. Act as a component of the citizen participation process to review the City's annual Community Development Block Grant program to assure a fair and equitable distribution of resources;
- E. Provide advice to the Community Development Department with respect to proposed community development block grant budget changes and expenditures of contingency funds.

The functions described in subsections D and E of Section 2-5-204 above, shall be carried out in accordance with the City of Colorado Springs Community Development Block Grant Citizen Participation Plan, as amended. (Ord. 83-27)

2-5-205: **RECORDS:** A record of each meeting of the Community Development Advisory Board shall be preserved by minutes only, and a verbatim transcript or tape of the meeting shall not be required. (Ord. 83-27)

2-5-206: **SUBCOMMITTEES:** The Community Development Advisory Board shall have the power to establish such subcommittees as it deems necessary to carry out the functions required of it in Section 2-5-204 above. All such subcommittees shall report to and act in an advisory capacity to the Community Development Advisory Board. (Ord. 83-27)

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 5 DEPARTMENT OF COMMUNITY DEVELOPMENT

PART 3 HUMAN RELATIONS COMMISSION

SECTION:

- 2-5-301: Commission Created
 2-5-302: Membership; Composition
 2-5-303: Membership; Terms
 2-5-304: Functions of the Commission

2-5-301: COMMISSION CREATED: There is hereby created the Human Relations Commission,¹ which shall consist of not less than nine (9) nor more than fifteen (15) members as the City Council shall by resolution appoint. (Ord. 3561; Ord. 77-208; 1968 Code § 1-167)

2-5-302: MEMBERSHIP; COMPOSITION:

- A. The membership shall be broadly representative of all citizens, reflecting as far as possible the racial, religious, ethnic, cultural and socio-economic groups of the community and shall consist of members whose training, interest, background or experience will aid the Commission in its work.
- B. The Commission shall select from its membership a chairman and such other officers as they may deem desirable. (Ord. 3561; Ord. 77-208; 1968 Code § 1-167)

2-5-303: MEMBERSHIP; TERMS:

- A. Appointments to the Commission shall be made in such manner as to achieve staggered three-year terms, with approximately one-third ($\frac{1}{3}$) of the Board membership being replaced or reappointed each year.
- B. Members of the Commission shall serve without compensation. (Ord. 3561; Ord. 77-208; 1968 Code § 1-167)

2-5-304: FUNCTIONS OF THE COMMISSION: The functions of the Commission shall be as follows:

- A. Promote mutual understanding and respect among all racial, religious, ethnic, cultural and socio-economic groups and work to discourage and prevent prejudicial discrimination or unfair treatment against any group.
- B. Disseminate information and educational materials and reports which will assist in the elimination of prejudice, intolerance, intergroup tensions, and unfair treatment and which will promote goodwill and community awareness with the object of promoting mutual understanding and respect.
- C. Initiate studies or investigations and make timely recommendations to City Council, or as directed by City Council, regarding complaints, problems, or specific situations arising between groups or individuals which result, or may result in unfair treatment, tensions or prejudicial discrimination in the City on account of race, religion, ethnicity or culture, age, sex, developmental disability or socio-economic status.
- D. Assist various groups and agencies of the community to cooperate in educational campaigns consistent with the accomplishment of the human relations goals set forth in this Part 3.
- E. Promote and cooperate with research efforts and the analysis of socio-indicators which may lead to improving socio-economic conditions and the living environments of persons living on low incomes.
- F. Provide assistance to all persons so that they will not be deprived of equal opportunities, services and fair treatment that are required by City, State and Federal regulations.

¹ For authority to create the Commission, see City Charter, Article X, § 55(a).

- G. Cooperate with City, State, Federal and other agencies in order to promote these human relations goals and the socio-economic development of low-income families in the community. (Ord. 77-208; 1968 Code § 1-168)

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 5 DEPARTMENT OF COMMUNITY DEVELOPMENT

PART 4 OLD COLORADO CITY SECURITY AND MAINTENANCE DISTRICT

SECTION:

- 2-5-401: District Created
 2-5-402: Real Property Within District;
 Assessed Value
 2-5-403: Old Colorado City District Advisory
 Committee Created
 2-5-404: Advisory Committee; Membership;
 Meetings
 2-5-405: Advisory Committee; Duties and
 Functions

2-5-401: **DISTRICT CREATED:** There is hereby created Old Colorado City Security and Maintenance District,¹ consisting of all lands lying in the following-described boundaries in the City of Colorado Springs, Colorado:

EASTERN BOUNDARY: The center line of 24th Street.

NORTHERN BOUNDARY: The center line of West Pikes Peak Avenue.

WESTERN BOUNDARY: The center line of 27th Street.

SOUTHERN BOUNDARY: Beginning at the intersection of the center lines of 24th Street and the alley between Cucharras Street and Vermijo Streets.

1. Thence, westerly along the center line of the alley between Cucharras Street and Vermijo Street to the easterly right-of-way line of 26th Street.

2. Thence, southerly along the easterly right-of-way line of 26th Street to the northerly right-of-way line of the Midland Expressway.

3. Thence, westerly along the northerly right-of-way line of the Midland Expressway to the westerly right-of-way line of 26th Street.

4. Thence, northerly along the westerly right-of-way line of 26th Street to the center line of

the alley between Colorado Avenue and Cucharras Street.

5. Thence, westerly along the center line of the alley between Colorado Avenue and Cucharras Street to the center line of 27th Street, said intersection being the termination of the southern boundary.

The public improvements to be secured and maintained are:

COLORADO AVENUE FROM 24TH STREET TO 27TH STREET. Curb, gutter and sidewalk, street trees and shrubs, clock tower, street furniture, accent lighting and identification signs.

PIKES PEAK AVENUE FROM 24TH STREET TO 27TH STREET. Curb, gutter and sidewalk, street trees and parking lots.

CUCHARRAS STREET FROM 24th STREET TO 26TH STREET. Curb, gutter and sidewalk, street trees and parking lots.

26TH STREET FROM MIDLAND EXPRESSWAY TO ALLEY NORTH OF COLORADO AVENUE. Curb, gutter and sidewalk, street trees, and identification signs.

25TH STREET FROM ALLEY SOUTH OF CUCHARRAS STREET TO PIKES PEAK AVENUE. Curb, gutter and sidewalk, street trees and the adjacent City parking lot and the maintenance building at 111 S. 25th Street.

24TH STREET (WEST SIDE) FROM ALLEY SOUTH OF CUCHARRAS STREET TO PIKES PEAK AVENUE. Curb, gutter and sidewalk, and street trees. (Ord. 79-241; Ord. 83-149)

2-5-402: **REAL PROPERTY WITHIN DISTRICT; ASSESSED VALUE:** The assessed value of the real property (excluding taxable personal property) within the District for the year

1. Ed. Note: For authority to establish public improvement districts within the City, see C.R.S. 1973 §§ 31-25-601 et seq.; Chapter 19, Article 7, Part 1 of this Code.

1979 is one million nine thousand eight hundred thirty dollars (\$1,009,830.00); the assessment to be made against the real properties in the District and to be paid by the owners therein for the tax year 1979 shall be thirty one (31) mills upon each dollar of assessed value of said real property, an amount not in excess of the mill levy requested in the petition. This mill levy shall be reviewed annually as the assessed valuation of real property (excluding taxable personal property) within the District is known and the budgetary needs of the District from the coming calendar year are determined, but in no case shall the mill levy exceed thirty eight (38). (Ord. 79-241)

2-5-403: OLD COLORADO CITY DISTRICT ADVISORY COMMITTEE CREATED:

There is hereby created the Old Colorado City District Advisory Committee for the Old Colorado City Security and Maintenance District. (Ord. 79-241)

2-5-404: ADVISORY COMMITTEE; MEMBERSHIP; MEETINGS:

- A. The Advisory Committee shall be composed of seven (7) members, each of whom shall own taxable real property within the District.
 - 1. A corporate owner may designate an officer or shareholder to serve on the Committee; provided, however, that no corporation may be represented on the Committee by more than one officer or shareholder.
 - 2. A partnership-owner or other co-ownership may be represented by one partner or co-owner.
 - 3. A trustee, other than a trustee under a trust deed (mortgage) for security purposes, may serve; provided, however, that if the trustee is a corporation the foregoing provision as to corporate representation shall apply.
 - 4. An attorney-in-fact deriving his authority from an acknowledged power-of-attorney may serve on the Committee.
- B. Ownership of more than a single property in the district shall not entitle the owner, whether a natural person or persons or a corporation or a personal representative (i.e., trustee or attorney-in-fact) to multiple membership on the Committee, it being the intention of City Council that the Committee shall be broad-based and representative of the entire district.

- C. The Committee shall elect its own chairman and vice-chairman and shall adopt necessary by-laws for its own governance. A majority of the entire membership of the Committee shall be required to support a recommendation to City Council.
- D. The Committee shall meet on the call of its duly elected chairman or, in his absence, the vice-chairman, but in no event less than once a year, so that a recommendation relating to the public improvements to be maintained and secured, budget, required mill levy, and other appropriate recommendations may be forwarded to the City Council on or before September 1 of each year. (Ord. 79-241)

2-5-405: ADVISORY COMMITTEE; DUTIES AND FUNCTIONS: The duties and functions of the Committee shall be:

- A. To advise the City Council of the level, extent and effectiveness of security and maintenance needed to be provided for those public improvements which have been uniquely developed for the Old Colorado City Development Area as set forth in "Redevelopment Guidelines for Old Colorado City" dated November 29, 1978;
- B. To review and recommend a proposed budget and resultant mill levy to support said security and maintenance for the ensuing fiscal year;
- C. To advise on any other matters determined to concern the operation of the District, including but not limited to:
 - 1. Supplemental maintenance to public improvements normally maintained by other entities and individuals; and
 - 2. Adjustments to the level, extent or effectiveness of contracted private security for public and private improvements other than as normally provided by the local law enforcement agencies.
- D. To advise and make recommendations as to any contracts involving the use of public moneys within the District which will affect the level or the extent or the effectiveness of required security or maintenance. (Ord. 79-241)

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 6 POLICE DEPARTMENT

PART 1 ORGANIZATION

SECTION:

- 2-6-101: Department Established
- 2-6-102: Appointments
- 2-6-103: Supervision
- 2-6-104: Chief of Police; Duties
- 2-6-105: Rules and Regulations

2-6-101: **DEPARTMENT ESTABLISHED:** There is hereby established a Police Department¹ which shall consist of the Chief of Police and such number of deputy chiefs, captains, lieutenants, sergeants, detectives, police officers and civilian employees as the City Manager may deem necessary for the efficient operation of the Department. The maximum number of employees in the Department shall be prescribed by City Council. (Ord. 856; 1968 Code § 7-3; 1980 Code)

2-6-102: **APPOINTMENTS:**

- A. The Chief of Police shall be appointed by the City Manager in accordance with the provisions of the City Charter.²
- B. Deputy chiefs shall be appointed by the Chief of Police with the consent of the City Manager and shall serve at the will and pleasure of the Chief of Police. The duties of said deputy chiefs shall be as prescribed by the City Manager and Chief of Police. The position of Deputy Chief shall not be included in the classified civil service.
- C. All uniformed members of the Police Department shall be appointed in accordance with the provisions of the City Charter and the civil service provisions of the City and the rules adopted thereunder in force at the time of such appointment.³
- D. An individual appointed to the position of Chief of Police or Deputy Chief from a position in the City's classified civil service may be reassigned by the City Manager to a position in the classified civil service at the rank held in the

D) classified civil service at the time of appointment. In the event of such a reassignment, time spent in the position of Chief of Police or Deputy Chief shall be counted as active classified civil service for the purpose of reestablishing all terms and conditions of employment in the classified civil service. (Ord. 856; Ord. 1104; Ord. 85-283; 1968 Code §§ 7-5, 7-6; 1980 Code)

2-6-103: **SUPERVISION:** The City Manager shall have general management and supervision and the Chief of Police shall have the direct management and supervision of all matters relating to the Police Department and of all the subordinate officers and employees therein.⁴ (Ord. 856; Ord. 1104; 1968 Code § 7-6)

2-6-104: **CHIEF OF POLICE; DUTIES:** The Chief of the Police Department shall be responsible for the discipline, good order and proper conduct of the Department, the enforcement of all laws, ordinances and regulations pertaining thereto, and for the care and condition of the buildings, equipment, apparatus and all other property of the Department. The Chief of Police shall be responsible for assignment of all personnel employed by the Police Department. The Chief of Police shall have the authority to divide the City into districts for the efficient delivery of police services. (Ord. 856; 1968 Code § 7-13; 1980 Code)

2-6-105: **RULES AND REGULATIONS:** The Chief of Police is authorized to promulgate all rules, regulations and orders of the Department, and shall cause to be furnished to every uniformed member of the Police Department a copy of such rules and regulations. All uniformed members employed by the Department shall be subject to such rules, regulations and orders. The rules of the Civil Service Commission shall govern disciplinary matters relative to uniformed personnel except as otherwise provided by charter or ordinance. (Ord. 856; 1968 Code § 7-14; 1980 Code)

1. For authority to establish Department, see City Charter, Article V, § 25.

2. City Charter, Article IV, § 24(b).

3. City Charter, Article IV, § 24(b); Civil Service provisions, Article XVIII, § 150.1.

4. City Charter, Article V, § 26.

*CHAPTER 2 ADMINISTRATIVE DEPARTMENTS***ARTICLE 6 POLICE DEPARTMENT***PART 2 OFFICERS OF THE DEPARTMENT***SECTION:**

- 2-6-201: Police Officers; Authority
- 2-6-202: Police Officers; Restrictions
- 2-6-203: Special Policemen and Special Patrolmen

2-6-201: POLICE OFFICERS; AUTHORITY:

- A. Persons employed by the Police Department of the City as peace officers shall exercise such law enforcement authority as provided to peace officers by the laws of the State of Colorado. Persons employed by the Police Department as peace officers shall have the authority to enforce all ordinances and laws, whether Federal, State or local. The jurisdiction of any peace officer employed by the Police Department of the City shall extend to all areas within the City limits, upon all property owned, leased or rented by the City, in all places involving fresh pursuit, and to all places as exigencies may require as provided by municipal, statutory or case law and public policy. (1980 Code)
- B. Any peace officer of the Police Department when in the performance of his official duty or going to or from his duty, may produce or show his badge to any conductor or collector of fares upon any bus, and when so presented, it shall be the duty of any such conductor or collector of fares to carry such peace officer from and to any point or points of destination within the City limits on their regular lines of travel. (Ord. 856; 1968 Code § 7-28; 1980 Code)
- C. The Police Department may render assistance to members of the Fire Department by giving alarms in case of fire and by clearing the streets or grounds in the immediate vicinity of the fire so that members of the Fire Department shall not be hindered or obstructed in the performance of their duties. (Ord. 856; 1968 Code § 7-21; 1980 Code)

2-6-202: POLICE OFFICERS; RESTRICTIONS:

- A. No uniformed member of the Police Department shall neglect or refuse to perform any duty required of him by the ordinances of the City, or the rules and regulations of the Police Department, or shall, in the discharge of his official duties, be guilty of any fraud, extortion, oppression, favoritism or other wrongful conduct. (Ord. 856; 1968 Code § 7-31)
- B. No employee of the Police Department, uniformed or civilian, shall receive any gifts, money or thing of value, or derive any profits, benefit or advantage, direct or indirect, from any prisoner or from any citizen by reason of being an employee of the Police Department, or for any services rendered by that person as an employee of the Department.
- C. Private or public rewards offered from outside City limits may be claimed and collected by any employee of the Police Department, but such rewards shall be turned over to the Chief of Police immediately. A public record shall be kept by the Chief of all such matters, and he shall immediately render one-half (½) of all such rewards collected to the individual earning same and the other half (½) shall be paid over to the Police Pension Fund. (Ord. 856; 1968 Code § 7-33)

2-6-203: SPECIAL POLICEMEN AND SPECIAL PATROLMEN:

- A. The City Manager may appoint any person who may be in the employment of the City as a special policeman with such powers as may pertain to his special department, but such person shall receive no additional pay from the City for his services. (Ord. 856; Ord. 1104; 1968 Code § 7-16)
- B. The City Manager may appoint, or he may delegate to the Chief of Police the authority to

- B) appoint, on the written application of any person or persons showing the necessity thereof, any additional number of special patrolmen to do special duty at any fixed place or district within the City, at the charge and expense of the person or persons by whom the application is made and shall keep a correct list of all persons so appointed together with the district or place to which they are appointed. Persons so appointed shall conform to and be subject to all rules and regulations governing the police force of the City and to such special rules and regulations as the Chief of Police may make concerning such special patrolmen. They shall possess such powers, privileges and duties as shall be specified in the letter of appointment by the City Manager or the Chief of Police, and they may be removed or discharged from service at any time by the City Manager or the Chief of Police without cause.¹ (Ord. 856; Ord. 1104; 1968 Code § 7-17)

1. Ed. Note: This Section should be distinguished from Chapter 8, Article 3, Part 2 of this Code relating to the licensing of merchant patrolmen. The term "merchant patrol" refers to a private business providing protection to persons or property which operates under a license issued by the City Clerk. Merchant patrolmen are not appointed by the City Manager.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 6 POLICE DEPARTMENT

PART 3 RESERVE POLICE OFFICERS

SECTION:

- 2-6-301: Reserve Police Created
- 2-6-302: Appointment, Compensation
- 2-6-303: Authority
- 2-6-304: Supervision
- 2-6-305: Oath of Office
- 2-6-306: Resignation and Removal
- 2-6-307: Uniforms and Equipment

2-6-301: RESERVE POLICE CREATED: There is hereby created the reserve police, which shall consist of such number of persons as shall from time to time be determined by the Chief of Police. (Ord. 77-78; 1968 Code § 7-34)

2-6-302: APPOINTMENT, COMPENSATION: The members of the reserve police shall be appointed by the Chief of Police. Each member shall be designated a reserve police officer and shall serve without pay. (Ord. 77-78; 1968 Code §§ 7-34, 7-35)

2-6-303: AUTHORITY: In case of need, the Chief of Police is hereby authorized to call into duty any or all of said reserve police officers. Such reserve police officers shall be empowered to act only when so called into duty and the authority of such reserve police officers shall be governed by the provisions of C.R.S. 1973 §§ 16-3-201 and 16-3-202, as amended. (Ord. 77-78; 1968 Code §§ 7-36, 7-38)

2-6-304: SUPERVISION:

- A. When called into duty, reserve police officers shall be under the direction of the Chief of Police and other officers of the Police Department as provided in the case of uniformed members of the Police Department, and shall be subject to all discipline and all rules and regulations applicable to paid regular police

- A) officers and all special rules and regulations for reserve police. (Ord. 77-78; 1968 Code § 7-36)

- B. No reserve police officer shall, while on duty, wilfully disobey any rules or regulations concerning such unit, or any proper order of the Chief of Police or any other police officer having authority over him. (Ord. 77-78; 1968 Code § 7-39)

2-6-305: OATH OF OFFICE: Before becoming a member of the reserve police, each reserve police officer shall take an oath to support the Constitution of the United States and the Constitution of the State of Colorado, and to faithfully perform the duties and assignments of a reserve police officer.¹ (Ord. 77-78; 1968 Code § 7-37)

2-6-306: RESIGNATION AND REMOVAL: Any reserve police officer may resign upon giving the Chief of Police forty eight (48) hours' notice in writing of his intention, and the Chief of Police may remove any such reserve police officer at any time without cause, without notice, and without appeal. (Ord. 77-78; 1968 Code § 7-37)

2-6-307: UNIFORMS AND EQUIPMENT: At his own expense, each reserve police officer shall purchase and maintain the same uniform and equipment required for officers of the Police Department. In addition, each reserve police officer shall wear a badge and patches signifying the fact that such officer is a reserve police officer. All badges, patches and identification cards shall remain the property of the Police Department. (Ord. 77-78; 1968 Code § 7-39.1)

¹. City Charter, Article XVII, § 139.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 6 POLICE DEPARTMENT

PART 4 CITY MARSHAL'S OFFICE

SECTION:

2-6-401: Office Established

2-6-402: Marshals; Appointment and Authority

2-6-403: Functions and Duties

2-6-401: **OFFICE ESTABLISHED:** There is hereby established the City Marshal's Office, which shall consist of the Chief Marshal, and such number of assistant and deputy marshals as the City Manager may deem necessary for the efficient operation of said office. Such office and all employees therein are hereby assigned to the office of the Chief of Police. Marshals are not considered "uniformed members" of the Police Department for the purpose of Sections 2-6-102, 2-6-105 and 2-6-201. (Ord. 84-83)

2-6-402: **MARSHALS; APPOINTMENT AND AUTHORITY:**

- A. The Chief Marshal, assistant and deputy marshals, and all other employees of the office, shall be appointed by the City Manager or his designated representative¹ in accordance with the provisions of the City Charter.²
- B. The Chief Marshal as well as each assistant and deputy marshal shall be appointed as special policemen by the City Manager.³ Such appointment shall be a prerequisite to employment as a Marshal within the office.
- C. All marshals of the office shall exercise such peace officer authority as provided to peace officers and special policemen by the laws of the State of Colorado, and shall have the authority to enforce such ordinances of the City as may be designated by the City Manager. The scope of law enforcement authority and responsibilities otherwise granted by State law shall be restricted to that specified in the letter of appointment by the City Manager, City Ordinances or other directives of the City

- C) Manager. The jurisdiction of the marshals shall extend to all areas within the City limits, in all places involving fresh pursuit, and to all places as provided by law. (Ord. 84-83)

2-6-403: **FUNCTIONS AND DUTIES:** The office shall be responsible for providing law enforcement services for the Municipal Court. In exercising such responsibility, the office shall:

- A. Be responsible for the service and execution of warrants, subpoenas, summons, show cause orders and all other legal process issued by the Municipal Court;
- B. Provide effective security services for the Municipal Court;
- C. Conduct investigative work relative to locating individuals named in legal process issued by the Municipal Court;
- D. Transport and detain City prisoners en route to and from Municipal Court and the lawful place of detention for such prisoners;
- E. Enforce all parking ordinances of the City;
- F. Cooperate with and, upon request, assist the Police Department of the City and other law enforcement agencies both within and without the City;
- G. Perform such other law enforcement services for the Municipal Court as the City Manager may direct. (Ord. 84-83)

1. The Chief of Police has been designated the "appointing authority" with respect to the City Marshal's Office. See the City Manager's memorandum of February 6, 1984.

2. City Charter, Article IV, §24(b).

3. See also Section 2-6-203 of this Code.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 7 FIRE DEPARTMENT

PART 1 ORGANIZATION

SECTION:

- 2-7-101: Department Established
- 2-7-102: Appointments
- 2-7-103: Supervision
- 2-7-104: Chief of Fire Department; Duties
- 2-7-105: Rules and Regulations

2-7-101: **DEPARTMENT ESTABLISHED:** There is hereby established a Fire Department,¹ which shall consist of the Chief of the Fire Department, Deputy Chiefs and such other subordinate officers, firemen and other employees as may be deemed necessary by the City Manager to protect the City against fire. (Ord. 855; Ord. 85-283; 1968 Code § 7-40)

2-7-102: **APPOINTMENTS:**

- A. The Chief of the Fire Department shall be appointed by the City Manager in accordance with the provisions of the City Charter.²
- B. Deputy Chiefs shall be appointed by the Chief of Fire with the consent of the City Manager and shall serve at the will and pleasure of the Chief of Fire. The duties of said deputy chiefs shall be prescribed by the City Manager and Chief of Fire. The position of Deputy Chief shall not be included in the classified civil service.
- C. All members of the Fire Department shall be appointed in accordance with the provisions of the City Charter and civil service provisions of the City and the rules adopted thereunder in force at the time of such appointment.³
- D. An individual appointed to the position of Chief of Fire or Deputy Chief from a position in the City's classified civil service may be reassigned by the City Manager to a position in the

D) classified civil service at the rank held in the classified civil service at the time of appointment. In the event of such a reassignment, time spent in the position of Chief of Fire or Deputy Chief shall be counted as active classified civil service for the purpose of reestablishing all terms and conditions of employment in the classified civil service. (Ord. 855; Ord. 1104; Ord. 85-283; 1968 Code § 7-47)

2-7-103: **SUPERVISION:** The City Manager and the Fire Chief shall have the direct management and supervision of all matters relating to the Fire Department and of all the subordinate officers and employees therein.⁴ (Ord. 855; 1968 Code § 7-41)

All members of the Fire Department shall perform such duties as may be required of them by the City Manager, the Chief, or the Chief's designated representative and shall wear such uniforms, caps, badges or insignia as the City Manager or the Chief may direct. (Ord. 855; Ord. 1104; 1968 Code §§ 7-47, 7-50)

2-7-104: **CHIEF OF FIRE DEPARTMENT; DUTIES:** The Chief of the Fire Department shall be responsible for the discipline, good order and proper conduct of the entire Fire Department, the enforcement of all laws, ordinances and regulations pertaining thereto, and for the care and condition of the buildings, equipment, apparatus and all other property of the Department. In addition to such duties and those duties prescribed by the City Manager, said Chief shall:

- A. Have supervision and control of all the members and employees assigned to the Department.
- B. Have control of all persons present at any fire or other emergency, and to that end shall, ex officio, have and exercise all powers of the Chief of Police.

1. For authority to establish Department, see City Charter, Article V, § 25.

2. City Charter, Article IV, § 24(b).

3. City Charter, Article IV, § 24(b); civil service provisions, Article XVIII, § 150.1.

4. City Charter, Article V, § 26.

- C. Have power, if need be, to summon any and all persons present to aid in extinguishing any fire, or in removing and guarding personal property from any building on fire, or in danger thereof.
- D. Have power to order the destruction or removal of any building, erection, tents or other structure if he shall deem it necessary for the purpose of checking the progress of any fire.¹
- E. In case of the absence of the Fire Chief from any fire, the Division Chiefs or in their absence a battalion chief of the Department or other designated representative of the Chief first at the fire shall, for the time, have the powers and perform the duties of such Chief. (Ord. 855; Ord. 1104; 1968 Code § 7-42; 1980 Code)

1. See also Section 2-7-305C of this Article.

2-7-105: **RULES AND REGULATIONS:** Subject to approval of the City Manager, the Fire Chief is authorized to promulgate all rules, regulations and orders of the Department, and shall cause to be furnished to every member of the Fire Department a copy of such rules and regulations. All persons employed by the Department shall be subject to such rules, regulations and orders. The rules of the Civil Service Commission shall govern disciplinary matters except as otherwise provided. (Ord. 855; 1968 Code § 7-49; 1980 Code)

*CHAPTER 2 ADMINISTRATIVE DEPARTMENTS***ARTICLE 7 FIRE DEPARTMENT***PART 2 OFFICERS OF THE DEPARTMENT*

SECTION:

2-7-201: Division Fire Chiefs

2-7-202: Physician for the Fire Department

2-7-201: **DIVISION FIRE CHIEFS:** There are hereby created the positions of Division Fire Chief in the Department. Said Division Fire Chiefs shall be appointed by the Chief of the Fire Department, subject to the approval of the City Manager, and their duties shall be as prescribed by the Fire Chief. During the absence or other disability of the Fire Chief, his authority and duties shall be exercised by a Division Fire Chief. Said positions shall not be included in the classified civil service. (1980 Code)

2-7-202: **PHYSICIAN FOR THE FIRE DEPARTMENT:**

- A. There is hereby created the position of physician for the Fire Department, the duties and functions of which shall be as prescribed by the City Manager and Fire Chief. Said position shall not be included in the classified civil service. Subject to applicable ordinances and regulations, and conditions imposed by the City Manager or Fire Chief, the home or other designated premises of said physician may be included in the Fire Department alarm system, and a siren or other proper warning device may be used by the physician upon the vehicle employed by him in his duties.
- B. Said physician shall be duly licensed to practice medicine in the State of Colorado. He shall receive no compensation for any services or acts rendered by him in virtue of his position, nor shall any liability accrue to the City by reason of any such services or acts. (Ord. 2531; 1968 Code § 7-45; 1980 Code)

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 7 FIRE DEPARTMENT

PART 3 POWERS OF THE DEPARTMENT

SECTION:

- 2-7-301: Right of Way
- 2-7-302: Require Aid of Persons Present at Fires
- 2-7-303: Assume Medical Control at Scene of Accident or Medical Emergency
- 2-7-304: Restrict Entry to Vicinity of Fire
- 2-7-305: Powers Over Property
- 2-7-306: Right of Entry
- 2-7-307: Authority to Enforce Laws; Power of Arrest

2-7-301: **RIGHT OF WAY:**

- A. It shall be unlawful for any person to fail to yield the right of way on any street, avenue, lane, alley or other public place of the City to any vehicle or apparatus of the Fire Department and to the officers in charge thereof in all cases when in the line of duty.
- B. It shall be unlawful for any person to impede or obstruct in any manner the progress of the vehicles of the Fire Department or the officers in charge thereof. (Ord. 855; 1968 Code § 7-52; 1980 Code)

2-7-302: **REQUIRE AID OF PERSONS PRESENT AT FIRES:**

- A. The Fire Chief and his designated representative are hereby authorized to order any person present at a fire to aid in the extinguishment of such fire and in the removal and protection of personal property therefrom.
- B. It shall be unlawful for any person to fail or refuse to obey any such order or to otherwise hinder the Fire Chief or his designated representative in the performance of his duties; provided, however, that no person shall be deemed to be in violation of this Section if the identity of the Fire Chief or his designated representative is not made known to such

- B) person. (Ord. 855; 1968 Code § 7-54; 1980 Code)

2-7-303: **ASSUME MEDICAL CONTROL AT SCENE OF ACCIDENT OR MEDICAL EMERGENCY:**

- A. For the purposes of this Section, "medical control" may be defined as the authority to administer all procedures necessary to assure the continued health of any person or persons injured in an accident or the subject of a medical emergency.
- B. Medical control at the scene of an accident or emergency shall be assumed either by the Fire Department or an ambulance service, whichever unit shall arrive first. In the event the Fire Department arrives first, transfer of this control from the Fire Department to the ambulance service shall be accomplished with due regard for the welfare of the patient.
- C. Nothing herein shall deprive the Fire Department of any power or authority vested in it by this Code, or otherwise provided by law, except as specifically set forth in this Section. (Ord. 78-223; 1968 Code § 7-63)

2-7-304: **RESTRICT ENTRY TO VICINITY OF FIRE:**

The Chief of the Fire Department or his designated representative may prescribe limits in the vicinity of any fire within which no persons excepting firemen and policemen and those admitted by order of any officer of the Fire Department shall be permitted to enter. (Ord. 855; 1968 Code § 7-55; 1980 Code)

2-7-305: **POWERS OVER PROPERTY:**

- A. The Chief or his designated representative shall have full power to cause the removal of any property, whenever it shall become necessary

- A) to protect such property from fire, or to prevent a spreading of fire, or to protect adjoining property.
- B. No person shall be entitled to take away any property saved from any fire and in possession of the Fire Department until he shall make satisfactory proof of the ownership thereof.
- C. When a fire is in progress; the Chief of the Fire Department or his designated representative may, with the approval of the City Manager, or the Mayor, or upon his own motion, if none of said officers are present, order any building or buildings that are in close proximity to such fire to be torn down, blown up or otherwise disposed of for the purpose of checking the conflagration, but neither the Chief nor any other officer or member of the Fire Department shall unnecessarily or recklessly destroy or damage any building or other property.¹ (Ord. 855; 1968 Code §§ 7-56, 7-57, 7-60; 1980 Code)

2-7-306: **RIGHT OF ENTRY:** The Fire Chief or his duly authorized representative shall have the authority to enter any building or premises for the purpose of extinguishing or controlling any fire, performing any rescue operation, investigating the existence of suspected or reported fires, gas leaks or other hazardous conditions or taking any other action necessary and reasonable in the performance of his duties. (1980 Code)

2-7-307: **AUTHORITY TO ENFORCE LAWS; POWER OF ARREST:** The Fire Chief and his designated representative shall have the authority to enforce within the City all ordinances and laws, whether Federal, State or local, pertaining to fires and the extinguishment or prevention thereof. Additionally, the Fire Chief and his designated representative shall have the power to arrest any person suspected of violating any provision of such ordinances or laws where such violation is declared therein to constitute a criminal offense. Any arrest made pursuant to the powers herein granted shall be in compliance with the laws of the State of Colorado.² (1980 Code)

1. See also, Section 2-7-104D of this Article.

2. C.R.S. 1973 §§ 16-3-101 et seq.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS
ARTICLE 8 SUPPORT SERVICES DEPARTMENT
PART 1 ADMINISTRATION

SECTION:

- 2-8-101: Department Established
- 2-8-102: Scope of Department
- 2-8-103: Duties of Director
- 2-8-104: Rules and Regulations

2-8-101: **DEPARTMENT ESTABLISHED:** There is hereby established the Department of Support Services of the City, which shall be under the supervision of the Support Services Director appointed by the City Manager.¹ (Ord. 82-196)

2-8-102: **SCOPE OF DEPARTMENT:** The Support Services Department shall have control, management and supervision of all support functions assigned to it by the City Manager which shall include but not be limited to vehicle management, facility management, risk management, and land acquisition and disposition. (Ord. 82-196; Ord. 85-273)

2-8-103: **DUTIES OF DIRECTOR:** The Support Services Director shall have control, management and supervision over all matters pertaining to the Support Services Department. (Ord. 82-196)

2-8-104: **RULES AND REGULATIONS:** The Support Services Director is hereby authorized to promulgate rules and regulations pertaining to support services. Such regulations shall be consistent with the provisions of this Code and the City Charter and such rules and regulations shall be subject to approval by the City Manager. (Ord. 82-196)

1. For authority to establish Department, see City Charter, Article V, Section 25.

CHAPTER 2 ADMINISTRATIVE DEPARTMENTS

ARTICLE 8 SUPPORT SERVICES DEPARTMENT

PART 2 RISK MANAGEMENT

SECTION:

- 2-8-201: Purpose and Intent
- 2-8-202: Duties of Risk Management Division
- 2-8-203: Claims Reserve Fund
- 2-8-204: Compromise or Settlement of Claims
- 2-8-205: Claims Review Board
- 2-8-206: Rules and Regulations
- 2-8-207: Litigation

2-8-201: PURPOSE AND INTENT: The City Council of the City of Colorado Springs hereby recognizes that the general liability and automobile liability insurance policies for the general City departments and some enterprise funds of the general City have been cancelled, and therefore, there is an extraordinary need to address methods to protect the City and its employees against claims brought under the provisions of the Colorado Governmental Immunity Act¹ and arising under Federal law. For purposes of this Part 2, reference to the "City" shall be deemed to include the general City Departments, Utilities Department, Memorial Hospital, all enterprise activities within the City, and any general improvement district formed by the City Council pursuant to the Improvement Districts in Municipalities (1949 Act)² as such now exists or may be amended.

The City Council recognizes the undesirable consequences of uninsured liability of the City, including failure to respond to meritorious claims in a timely fashion, and greater ultimate costs of settlement caused by failure to investigate claims in an orderly and timely manner. The City Council declares, therefore, that the appropriate remedy is to create a reserve fund for purposes of self-insurance of the City to the extent that insurance coverage has not been obtained. The City Council declares that the purpose of this Part 2 is to create a claims reserve fund, provide a mechanism for claims adjustment, investigation, defense, and to authorize the settlement and payment of claims and payment of judgments rendered against the City for such claims or judgments arising out of violation of Federal law or pursuant to any action which lies in tort or could lie in tort regardless of whether that may be the type of cause or action chosen by the claimant. The City Council

finds that, in order to adequately protect the City and carry out these purposes, it is necessary to authorize the Support Services Department to perform these risk management services for the City. The City Council declares that its intent is to explore the availability of commercial liability insurance policies of all types, including but not limited to variable deductible amounts in order to ensure that the costs of protecting the City against liability are minimized. (Ord. 85-273; Ord. 86-75)

2-8-202: DUTIES OF RISK MANAGEMENT DIVISION:

- A. The Risk Management Division shall have the following powers and duties:
 - 1. To coordinate and administer a comprehensive risk management program that serves the City;
 - 2. To administer the investigation and processing of claims brought against the City;
 - 3. To oversee those persons or parties who may contract with the City to provide claims investigation, claims adjustment and support services;
 - 4. To develop and administer a system that identifies the property and liability losses, insurance costs and administrative costs of risk management incurred by each department of the City;
 - 5. To establish a program to reduce property and liability losses incurred by each department of the City;
 - 6. To establish a program of inspection of City property;
 - 7. To implement programs reducing property and liability losses in conjunction with department and division heads;
 - 8. To identify and evaluate the exposure of City departments to claims for property and liability losses;

¹ See § 24-10-101, C.R.S.

² Section 31-25-601 et. seq. C.R.S.

- A) 9. To advise the City Manager with respect to specifications of and the need for procuring commercial insurance, if any, to protect the City against liability;

10. Such other functions and duties as assigned by the Director of Support Services or the City Manager. (Ord. 85-273)

2-8-203: CLAIMS RESERVE FUND:

- A. There is hereby created a fund to be known as the Claims Reserve Fund, which will consist of all monies which may be appropriated thereto by the City Council or which may be otherwise made available to it by the City Council. The monies "otherwise made available" shall be deemed to include transfers of monies to the Fund authorized in any given annual budget ordinance. All interest earned from the investment of monies in the Claims Reserve Fund shall be credited to that Fund and become a part thereof. The monies in the Fund are hereby continuously appropriated for purposes of this Part 2. The City Controller shall account for all independent fund categories within the Claims Reserve Fund including utilities and enterprise funds if any are so appropriated. For purposes of complying with City Charter §32 wherein it is stated: "The funds of the Department of Utilities shall be kept separate from the funds of all other departments of the City" the City Controller shall ensure that utility funds, if any, contributed to the Claims Reserve Fund are not combined with other City funds and that accounting of utility funds is done in such a manner so as to comply with the Charter provision. The City Controller shall similarly account for enterprise funds if any are contributed to the Claims Reserve Fund. At the end of any fiscal year, all unexpended and unencumbered monies in the Claims Reserve Fund shall remain therein and shall not be credited or transferred to any other fund.
- B. The Claims Reserve Fund shall maintain reserves for incurred but unpaid liability claims for injuries which lie in or could lie in tort regardless of whether that may be the type of action chosen by the claimant, and for claims arising out of Federal law. The Claims Reserve Fund shall maintain reserves to provide for the contingency that in any year the contribution to the Claims
- B) Reserve Fund from other funds is adequate to cover the actual expenses realized in that year. The Director of Support Services, after consultation with the Director of Finance, the City Attorney and the City Auditor, shall recommend the amount of money that is required to maintain adequate reserves. Adequate reserves shall be maintained in the Claims Reserve Fund subject to available appropriations made by the City Council at its discretion.
- C. Expenditures made out of the Claims Reserve Fund in accordance with this subsection shall be made only for the following purposes:
1. To pay general liability claims and automobile liability claims and expenses related thereto, brought against the City, its employees or officials pursuant to the Colorado Governmental Immunity Act, and claims against the City and its officials or employees arising under Federal law, which the City is legally obligated to pay and which are compromised or settled pursuant to this Part 2 or in which a final money judgment against the City has been entered;
 2. To pay the costs of defense, including expert witness fees and outside counsel legal fees, and investigation and other related defense costs in connection with claims brought pursuant to the requirements of subsection C1 above.
- D. Monies in the Claims Reserve Fund shall not be used to pay any of the following:
1. Claims for liabilities or losses which are covered under commercial insurance policies purchased by the City;
 2. All claims other than those which arise under Federal law or which lie or could lie in tort regardless of whether that may be the type of action chosen by the claimant;
 3. Any other claim or expense not set forth in subsection C of this Section.
- E. The City Clerk/Treasurer shall be responsible for the management and investment of the Claims Reserve Fund.
- F. The setting aside of reserves for self-insurance purposes in the Claims Reserve Fund created in

- F) this Section shall not be construed to be creating an insurance company nor shall the Claims Reserve Fund otherwise be subject to the provisions of the laws of the State of Colorado regarding insurance or insurance companies. The requirements of Section 10-4-716 C.R.S., concerning self-insurance under the Colorado Auto Accident Reparations Act are not applicable to this Part 2.
- G. Disbursements made from the Claims Reserve Fund for eligible expenditures shall be initiated by the preparation of a warrant requisition to the City Controller or Utility Controller from the risk management section in accordance with the authority set forth in Sections 2-8-204 and 2-8-207 of this Part 2. All requests for disbursements from the Claims Reserve Fund shall be given the highest priority by the City Controller with respect to the processing and preparation of a warrant in connection with the compromise or settlement of claims or the payments of judgments.
- H. The City Auditor or any person authorized by him shall conduct an examination at least once a year to determine that proper underwriting techniques, sound funding procedures, loss reserves, claims procedures, and accounting practices are being followed in the management and operation of the Claims Reserve Fund or such other funds being used to cover deductible amounts when there is insurance coverage. The City Auditor shall present a report of his findings to the City Council.
- I. Beginning on or before March 1, 1986, and on or before March 1 of each year thereafter, the City Clerk/Treasurer shall report to the City Council regarding the operation and management of the Claims Reserve Fund. The report shall show, but not be limited to, the name of all lending institutions, funds, or other depositories where risk management funds have been deposited, the sums of money on deposit therein, the interest paid or credited thereon, the rate of interest so credited. (Ord. 85-273; Ord. 86-23)

2-8-204: COMPROMISE OR SETTLEMENT OF CLAIMS:

- A. It shall be the responsibility of the Risk Management Division to investigate and to either
 - A) deny, compromise or settle all claims filed against the City or its employees pursuant to the requirements of the Governmental Immunity Act or arising under Federal law in accordance with this Part 2. Prior to settling a claim of fifteen thousand dollars (\$15,000.00) or more, the person authorized to settle the claim shall consult with the head of the affected department to determine the appropriateness of the compromise or settlement amount; provided however, that the ultimate decision shall rest with the person having the responsibility pursuant to this Section 2-8-204 to settle or compromise the claim. Nothing herein, however, shall preclude the person authorized to settle the claim to refer the claim to a person with higher settlement authority, the Claims Review Board, or to the City Council, as appropriate.
 - B. The following parties are authorized to make compromises or settlements on behalf of the City in the following amounts:
 - 1. The Claims Manager, or his employees employed by the Risk Management Division or under contract with the Division, is authorized to settle claims for an amount not to exceed fifteen thousand dollars (\$15,000.00);
 - 2. The Safety and Risk Manager of the Division is authorized to settle claims for an amount not to exceed twenty five thousand dollars (\$25,000.00);
 - 3. The Claims Review Board is authorized to settle claims for an amount not to exceed seventy five thousand dollars (\$75,000.00);
 - 4. The City Council is authorized to settle claims for an amount not to exceed the maximum liability limits under the Colorado Governmental Immunity Act for claims which lie or could lie in tort regardless of the nature of the action which is brought by the claimant, and for such other amounts which the City Council deems appropriate with respect to claims arising under Federal law.
 - C. No claims shall be settled unless supported by a Claims Settlement Report, which will give a concise statement of the nature of the claim, the history of the proceedings, and a recommendation from the person assigned the claim on behalf of the City.

- D. In investigating claims brought against the City and its officials or employees, the Claims Manager shall have authority to seek the advice and cooperation of all departments of the City with respect to establishment of facts, determination of liability, and assistance in utilization of the professional expertise of various employees within the City in connection with those claims. Such advice and assistance shall be provided on a timely basis.
- E. No claim shall be settled pursuant to the requirements of this Section unless the claimant has executed and presented a full release or discharge of liability to the City and its officers and employees arising out of the facts under that claim unless otherwise authorized by the Safety and Risk Manager and the City Attorney.
- F. On July 1, 1986, and December 31, 1986, and at least once each year thereafter, the City Auditor or any person authorized by the City Auditor shall conduct an examination of the claims procedures, use of settlement authority and management and operation of the Risk Management Division to determine that the use and operation of the Claims Reserve Fund is being accomplished in a prudent and reasonable manner. The City Auditor shall present a report of his findings to the City Council.
- G. 1. Section 2-8-201 of this Part recognizes that the Utility Department and some enterprise fund activities have not yet had cancelled their general liability or automobile liability insurance policies. However, the insurance policies that exist contain self insurance retention amounts which are the responsibility of the City. Section 2-8-203 of this Part enables transfers of monies set aside to cover self insurance retention amounts to the Claims Reserve Fund if done by the City Council. If such is not done by the City Council, then the accounts within the respective enterprise funds and the utility division budgets for coverage of self insurance retention amounts are recognized as monies that can be used in accordance with Section 24-10-113, C.R.S., as amended, to pay any costs of defense, including expert witness fees and outside counsel legal fees, and investigation and other related defense costs in connection with claims brought pursuant to this Part 2 and to pay any compromise, settlement or final judgment.

- G) 2. The Department of Utilities and Enterprise Fund activities which have general liability and automobile liability insurance coverage with self insurance retention amounts shall cause claims made against the Department of Utilities or Enterprise Fund activities to be handled up to the self insurance retention amounts or in the case of claims under the Colorado Governmental Immunity Act, up to the damage limitations set forth in Section 24-10-114, C.R.S., as amended, in accordance with this Part 2.
- H. Disbursements from the Claims Reserve Fund or any other accounts established for the purpose of covering self insurance retention amounts where there is general liability and automobile liability insurance coverage for claims compromised or settled shall be paid by the City Controller or Utility Controller on behalf of the Utilities Department upon warrants drawn in accordance with the law and this Part 2. All disbursements made by the City or Utility Controller shall be duly reported in the City or Utility Controller's annual financial report. (Ord. 85-273)

2-8-205: CLAIMS REVIEW BOARD:

- A. There is hereby created a Claims Review Board which shall consist of the City Manager, or his designated representative, the City Attorney, the Director of Finance, The Director of Support Services, and the affected department head involving a claim within his department. The Claims Review Board shall meet only when required to determine whether or not to compromise or settle a claim within the authorities provided to in Section 2-8-204 above. Three members present shall constitute a quorum of the Board.
- B. The Claims Manager of the risk management section shall act as the secretary of the Board and shall be responsible for preparing its agendas and providing the Board with all applicable reports and documentation necessary to properly assess claims brought before it.
- C. It shall be the responsibility of the Claims Manager and Chief Litigation Attorney to prepare a claims assessment in connection with each claim brought before the Board, and that claims

- C) assessment shall meet all of the requirements, as a minimum, of the claims settlement report as set forth in Section 2-8-204C above.
- D. The Board shall have the following powers and duties:
 - 1. To compromise or settle claims on behalf of the City and its officials and employees in amounts authorized in Section 2-8-204 above;
 - 2. To adopt rules governing its own organization and proceedings;
 - 3. To advise in the management of the Claims Reserve Fund created pursuant to this Part 2 and activities arising thereunder in connection with the settlement or compromise of claims brought against the City, its officials and employees. (Ord. 85-273; Ord. 86-23)

2-8-206: RULES AND REGULATIONS: In order to carry out the purposes of this Part 2, the Safety and Risk Manager, with approval of the Director of Support Services, may promulgate reasonable rules and regulations governing the following:

- A. The administration of programs authorized in this Part 2;
- B. The management and administration of the investigation and adjustment of claims brought against the City, its officials and employees;
- C. The approval of and contract administration of parties who have contracted with the City to provide claims investigation, claims adjustment, and support services to the Division;
- D. Development of procedures and standard forms required for the processing of the claims through the Risk Management Division for compromise settlement or denial;
- E. Subject to approval by the City Attorney, preparation of documents required to discharge or hold harmless the City and its officers and employees from liability under a claim; and
- F. Standards for compromising and settling claims brought against the City or its employees or officials. (Ord. 85-273)

2-8-207: LITIGATION:

- A. Pursuant to the requirements of City Charter and Chapter 1, Article 4, Part 3, the City Attorney shall have the responsibility to represent the City, and its officers and employees, as applicable, in connection with all litigation arising under claims brought pursuant to this Part 2.
- B. The City Attorney, or his duly authorized assistants, shall have the authority to settle litigation up to twenty five thousand dollars (\$25,000.00), with settlements up to seventy five thousand dollars (\$75,000.00) having the prior approval of the Claims Review Board, and settlements over seventy five thousand dollars (\$75,000.00) with the prior approval of City Council; provided however, that nothing herein shall preclude the City Attorney, in his discretion, from presenting any such settlement, regardless of amount, to the City Council for prior approval.
- C. The City Attorney shall have the power to authorize requests to the Safety and Risk Manager for disbursements from the Claims Reserve Fund or such other appropriate accounts in connection with litigation expenses, including but not limited to, outside counsel fees, defense costs, expert witness fees, and preparation of such demonstrative evidence which is necessary to properly and reasonably defend the City, its officers and employees in connection with said litigation.
- D. The City Attorney shall have the authority to contract for outside counsel in connection with litigation arising out of claims brought pursuant to this Part 2, and may request disbursements from the Claims Reserve Fund or such other appropriate funds as set forth in Section 2-8-207C above.
- E. In addition to the monthly litigation report, the City Attorney shall be responsible for providing a litigation settlement report to the City Council and the Safety and Risk Manager for all cases which have been settled without the prior knowledge of City Council pursuant to the requirements of this Section 2-8-207. (Ord. 85-273)

CHAPTER 3
CITY PERSONNEL

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ARTICLE 2

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CITY EMPLOYEES

- Employee Rules and Regulations
- Job Rate Pay Administration
- Wages and Benefits
- Additional Employee Benefits
- Defense of Employees

CIVIL SERVICE EMPLOYEES

- Administrative Rules and Regulations
- Police Department, Additional Benefits
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CHAPTER 3 CITY PERSONNEL

ARTICLE 1 CITY EMPLOYEES

PART 1 EMPLOYEE RULES AND REGULATIONS

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- 3-1-102: Personnel Policies and Procedure Manual
- 3-1-103: Bonds
- 3-1-104: Reports Required
- 3-1-105: Deliver Property to Successor
- 3-1-106: Candidates for Election
- 3-1-107: Kickbacks to City Employees Prohibited
- 3-1-108: Penalty

3-1-101: **APPLICABILITY:** Unless otherwise provided, the provisions of this Article shall be applicable to all employees of the City. (1980 Code)

3-1-102: **PERSONNEL POLICIES AND PROCEDURE MANUAL:**

- A. The City Manager shall promulgate a Personnel Policies and Procedure Manual and changes thereto as from time to time deemed necessary. Such Manual shall apply to all City employees with the exception of uniformed police officers and firefighters. Each employee shall be provided a copy thereof, and it shall be the responsibility of each employee to be familiar with such Manual.
- B. Before making changes to the Manual, the City Manager shall cause the text of the proposed changes to be posted on departmental bulletin boards at least ten (10) working days prior to the effective date of such changes. Any employee objecting to such proposed changes shall give written notice of his objection to the City Manager and Personnel Director. Upon receipt of such notice, the City Manager shall

- B) hold at least one public hearing to hear comments concerning the proposed changes to the Manual. After such hearing, the City Manager shall either promulgate the changes as originally proposed, promulgate changes resulting from the hearing, or make no changes to the existing Manual. (Ord. 74-159; 1968 Code § 1-129.1; 1980 Code)

3-1-103: **BONDS:** Certain City employees are required to be bonded and shall be so bonded pursuant to the provisions of Section 1-4-102 of this Code. (1980 Code)

3-1-104: **REPORTS REQUIRED:** In addition to any reports required to be made by ordinance, all officers and employees of the City shall report to the City Manager or City Council, verbally or in writing as and when requested, the condition of their respective offices and of the business and all matters therein concerning the interests of the City. (Ord. 730; Ord. 1104; 1968 Code § 1-120)

3-1-105: **DELIVER PROPERTY TO SUCCESSOR:** Every employee of the City shall, at the time his successor shall qualify, deliver to such successor all books and property in his possession belonging to the City or appertaining to his employment.¹ (Ord. 730; 1968 Code § 1-121; 1980 Code)

3-1-106: **CANDIDATES FOR ELECTION:** Any officer appointed by the City Council (excluding members of boards and commissions), or any department head or division chief of the City who files an acceptance of petition for his nomination as a candidate for any elective office of

1. For similar provisions applicable to appointive officers of the City, see Section 1-4-105 of this Code.

the State of Colorado, the County of El Paso, the City, or any school district lying wholly or partly within the City limits or within the service area of the Department of Utilities, shall immediately cease holding office or employment with the City. (Ord. 75-57; 1968 Code § 1-125; 1980 Code)

3-1-107: KICKBACKS TO CITY EMPLOYEES PROHIBITED:

A. Definitions:¹

CITY EMPLOYEE: Any employee of the City, either full-time or part-time, as defined by City Charter.²

INTENTIONALLY: A City employee acts intentionally with respect to a result or conduct described by this Section defining a violation when his conscious object is to cause that result or to engage in that conduct or when his actions are such as to give rise to a substantial certainty that such results will be produced.

KICKBACK: Money or other thing of value solicited or received by a City employee from any person dealing with or contacting him in his capacity as a City employee resulting in the referral of business to any person or the receipt of any monetary or equivalent benefit by any person.

KNOWINGLY: A City employee acts knowingly with respect to conduct or a circumstance described by this Section defining a violation when he is aware, or reasonably should be aware, that his conduct is of that nature or that the circumstance exists.

- B. Kickbacks Prohibited.** It is unlawful for any City employee to knowingly or intentionally solicit or receive any kickback. (Ord. 77-150; 1968 Code § 1-126)

3-1-108: PENALTY:

- A. Misfeasance, malfeasance or nonfeasance by any officer or employee of the City with respect**

- A)** to his duties may carry as a penalty removal from office or employment.
- B.** The penalty of removal provided herein shall not be exclusive but shall be cumulative with all other penalties or remedies. Nothing contained herein shall be construed to place any additional restriction on the authority of the City Manager or the City Council to remove an officer or employee of the City. (1980 Code)

1. For definitions of general application, see Section 1-1-203 of this Code.

2. See City Charter, Article XVII, § 132.

CHAPTER 3 CITY PERSONNEL

ARTICLE 1 CITY EMPLOYEES

PART 2 JOB RATE PAY ADMINISTRATION

SECTION:

- 3-1-201: Definition; Applicability
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- 3-1-205: Newly Created Jobs
- 3-1-206: Other City Personnel
- 3-1-207: Pay Administration Plan Amendments

3-1-201: DEFINITION; APPLICABILITY: The job rate is defined as a salary rate which is substantially equal to the prevailing salary rate in the appropriate labor market. The job rate concept of pay administration applies to all City jobs, excluding contractual and special employments.¹ (Ord. 4831; 1968 Code §§ 1-106, 1-107; 1980 Code)

3-1-202: GENERAL CITY AND DEPARTMENT OF UTILITIES EMPLOYEES:

- A. Establishment of Salary Ranges. In the annual budget, the City Council shall approve salary ranges and the allocation of positions within the general City and Department of Utilities to the respective salary ranges. The ranges of pay shall be established as a series of steps within each grade. The first three (3) steps shall be entitled, "Step 1", "Step 2" and "Step 3"; the fourth step shall be entitled, "Job Rate". (Ord. 4831; 1968 Code § 1-108)
- B. Hiring Rates. The first step of the salary range shall be paid to new employees; provided, however, the second, third and fourth (job rate) steps may be utilized where the background of the candidate and/or labor market conditions

B) justify such salary treatment. An offer of salary in excess of the first step must be approved in advance by the Director of Personnel. (Ord. 4831; 1968 Code § 1-109)

C. Step Increases. Each new employee hired at Step 1 of the salary range shall receive the job rate (fourth step) within thirty (30) months of his employment date, providing such employee's attainment of increased job qualifications and his performance have been satisfactory during the term of his employment. (Ord. 4831; 1968 Code § 1-110)

D. Merit Increases. Employees affected by the job rate concept may be eligible for merit award. Such awards shall be strictly limited and controlled as set forth in the Personnel Manual.² (Ord. 4831; 1968 Code § 1-111; 1980 Code)

3-1-203: EXECUTIVE SALARIES: In the annual budget, the City Council shall approve salary ranges for executive positions. Executive salaries shall be established as specific amounts within said ranges. The salaries of the City Manager, City Attorney, City Clerk-Treasurer, City Auditor and Municipal Judges shall be set by the City Council as required by Charter. The salaries of all other executive personnel shall be set by the City Manager. Insofar as practical, the job rate concept shall be utilized by the City Council and the City Manager in setting salaries for executive personnel. (Ord. 4831; 1968 Code § 1-112; 1980 Code)

3-1-204: CONTRACTUAL AND SPECIAL EMPLOYMENTS: The City Manager is authorized to employ consultants or specialists on such basis as he deems best and to fix their

1. See Section 3-1-204 of this Code.

2. See 3-1-102 of this Code.

compensation, provided that such compensation does not exceed ten thousand dollars (\$10,000.00) for a specific undertaking and provided that funds for payment thereof are included in the annual budget. If such agreed compensation will exceed ten thousand dollars (\$10,000.00), such employment and compensation shall be subject to the approval of City Council. Such consultants or specialists shall be deemed independent contractors for all purposes. (Ord. 4831; 1968 Code § 1-115; 1980 Code)

3-1-205: NEWLY CREATED JOBS: Where appropriate because of a change in conditions or changes in duties and responsibilities during the fiscal year, the City Manager may designate new classifications and appropriate pay grades therefor. Such positions need not be incorporated in the budget until the next succeeding annual budget is established. (Ord. 4831; 1968 Code § 1-117)

3-1-206: OTHER CITY PERSONNEL: The City Council shall approve salaries for all other personnel not specifically provided for hereinabove, utilizing the job rate concept. (Ord. 4831; 1968 Code § 1-114; 1980 Code)

3-1-207: PAY ADMINISTRATION PLAN AMENDMENTS: The City Manager shall prepare recommended changes to the annual Salary Schedule and shall submit them to City Council for approval prior to final approval of the annual budget. (Ord. 4831; 1968 Code § 1-116; 1980 Code)

CHAPTER 3 CITY PERSONNEL

ARTICLE 1 CITY EMPLOYEES

PART 3 WAGES AND BENEFITS

SECTION:

- 3-1-301: Purpose
- 3-1-302: Definitions
- 3-1-303: Annual Labor Market and Salary Data Survey
- 3-1-304: Annual Determination of Total Cost of Salaries and Benefits
- 3-1-305: Salary and Benefit Schedules; Approval
- 3-1-306: Administration of Salary Schedule

3-1-301: **PURPOSE:** It is the purpose of this Part 3 to assure that employees of the City are compensated on grounds that are internally equitable and externally competitive.¹ (Ord. 76-60; 1968 Code § 1-117.1)

3-1-302: **DEFINITIONS:**²

INTERNALLY EQUITABLE: Pricing jobs at their proportionate worth to the City. This results from the application of techniques commonly referred to in the personnel management profession as job analysis and job evaluation. (Ord. 76-60; 1968 Code § 1-117.2)

EXTERNALLY COMPETITIVE: Pricing jobs to be competitive with the labor market from which the City normally recruits and retains its employees. This results from salary survey data and determination of relationship of City pay practice to the pay practice of the market surveyed. (Ord. 76-60; Ord. 77-32; 1968 Code § 1-117.2)

SALARIES AND BENEFITS: Includes all compensation and recompense paid to an employee for services rendered and reimbursement for expenses when due, and includes nonmonetary as

well as monetary benefits. (Ord. 76-60; 1968 Code § 1-117.2)

- A. "Salary" includes, but is not limited to base annual salary, overtime pay, standby pay and shift differential.
- B. "Benefits" includes, but is not limited to vacation, holidays, medical insurance, life insurance, sick leave, worker's compensation, retirement plans, clothing allowance, longevity, funeral leave, military leave and education reimbursement.

LABOR MARKET: The area in which the City competes for and recruits and retains its employees.

SALARY DATA MARKET: The area in which the City solicits salary data. The salary data market may be (1) the labor market in which the City competes, or (2) the labor market in which comparable jobs are found, or (3) both. (Ord. 77-32; 1968 Code § 1-117.2; 1980 Code)

3-1-303: **ANNUAL LABOR MARKET AND SALARY DATA SURVEY:**

- A. Annually, on or before the first regular Council meeting in March of each calendar year, the City Manager shall identify to the City Council the labor market and the salary data market from which he intends to solicit salary and benefit data for the purpose of preparing his estimate of the total anticipated cost of salaries and benefits for City employees for the coming budget year. The identification of such labor and salary data markets shall be made available to the City's employees and the public.

1. Procedures established in this Part 3 are in addition to and in furtherance of the job rate concept as provided in Part 2 of this Article.

2. For definitions of general application, see Section 1-1-203 of this Code.

- B. The City Council may consider the information at that same Council meeting or at a subsequent meeting and may receive any statements any person may make concerning such labor market and salary data market designations.
- C. If no statements are made or if no formal consideration of such designation by the City Council is forthcoming by the close of the second regular Council meeting in April, the City Manager shall assume that such labor and salary data market designations are acceptable to the Council and shall proceed to solicit salary and benefit data from those sources.
- D. If the City Council desires other designations, it shall designate by formal action by the second regular meeting in April such other labor markets and salary data markets.
- E. Such designation, whether expressed or assumed, shall constitute but one source of information relating to salary and benefit data and nothing contained in this Section shall be construed in any way to limit the City Council to consideration of only the labor market and salary data market so designated, nor in any manner to bind the City Council to pay salaries or benefits equal or approximate to salaries or benefits paid by any other entity or industry in the labor market or salary data market so designated.
- F. Nothing contained in this Section shall be deemed to require formal notification or publication or posting of any notice either in full or in summary form, or public hearing by the City Council. (Ord. 77-32; 1968 Code § 1-117.3; 1980 Code)

3-1-304: ANNUAL DETERMINATION OF TOTAL COST OF SALARIES AND BENEFITS:

- A. Annually, on or before July 15, the City Manager shall report to the Council his estimate of the total anticipated cost of salaries and

- A) benefits for employees for the coming budget year, clearly identifying all increases over the current budget year. Such estimate shall assume the same number of employees as are approved in the current budget year, allowing for normally anticipated step raises and increases of like nature which will occur with or without any overall salary and benefit adjustment, but shall not include any new positions or reclassifications of existing positions. His estimate shall be based upon but shall not be limited to such economic data as rates, variations and trends of national inflation, adjustments in the cost of living as reflected in consumer price indexes, competitive labor market data and such other data as the City Manager shall deem pertinent.
- B. At the same time the City Manager makes his report to City Council, he shall cause the City's employees and the public to be informed of the contents of his report in such manner as to inform all interested persons thereof; provided, this provision is not to be so interpreted as to require formal publication or posting of his report, either in full or in summary form.
- C. Upon receipt of the City Manager's report, the City Council shall consider same at its next regular Council meeting. The Council shall thereupon, or not later than the first regular Council meeting in August, preliminarily accept, modify, or reject the City Manager's report.¹ (Ord. 78-67; 1968 Code § 1-117.4)

3-1-305: SALARY AND BENEFIT SCHEDULES; APPROVAL:

- A. At the first regular Council meeting in October, the City Manager shall cause to be reported to the City Council his proposed salary and benefit schedule for the coming budget year in conformity with Council guidelines as provided in Section 3-1-304 above. Such schedule shall be based upon such salary data from the approved labor market(s) and the salary data market(s), upon internal job analysis and job

1. It is recognized that the proposed salary and benefit schedule reported to Council at the first regular Council meeting in October, as provided in Section 3-1-305A, may be adjusted through the City Manager's administrative procedure for the establishment of salaries and benefits. (Ed. Note: This footnote is part of the ordinance as originally adopted.)

- A) evaluation, including but not limited to consideration of productivity, and upon such other data as the City Manager shall deem proper.
- B. It is the intention of the City Council that salaries and benefits should be recommended by the City Manager based upon the criteria enumerated in subsection A. To this end the Council directs that every effort be made by and between the City Manager and affected employee(s) to resolve all objections and protests to the proposed schedule prior to the reporting of such schedule to the City Council. And to this same end, the City Council further declares that neither the Council nor any individual member thereof should become involved in the formulation of the salary and benefit schedule on behalf of any employee(s) after the Council determination of the total cost of salaries and benefits until such time as the salary and benefit schedule is officially reported to the City Council.
- C. At the regular Council meeting upon which such report appears any employee who has previously protested the salary and benefit schedule to the City Manager in writing, may appear and protest the schedule, either in whole or in part. Upon receipt of such protest the City Council may determine the matter forthwith or may set a time and place at which the matter may be heard and determined. In presenting a protest, an employee may be represented by an attorney of his choice or by another employee of the same classification. In its discretion the Council may recognize a person as representative of one or more individual employees involving more than a single classification for the sole purpose of protesting the salary and benefit schedule relating to the represented employees. Also in the exercise of its discretion the Council may impose such conditions and restrictions as it sees fit, including without limitation, signed proof of representation, time limits on presentation, and the like. (Ord. 78-67; 1968 Code § 1-117.5)

- D. Public response to all or any part of the total anticipated cost of salaries and benefits or the proposed salary and benefit schedule shall be presented to City Council not later than the first regular Council meeting in October in order to allow review and comment by the City Manager and affected employees. It is the intention of the City Council that the City Manager and affected employees shall always be afforded a reasonable opportunity to review and respond to any comment adverse to the City Manager's reports or to the employees' position whenever such comment may occur, keeping in mind, however, the need for finality in the process in order to secure approval of the City budget in a timely fashion. Nothing contained herein shall be interpreted to limit public discussion of the City budget or any portion thereof at any meeting of the City Council or at any hearing held pursuant to State or Federal law or regulation at which the City budget is discussed. (Ord. 79-115; 1968 Code § 1-117.5)
- E. The decision of the City Council, to be made not later than the second regular Council meeting in October, shall be final and not subject to appeal or review, it being the declaration of the City Council that the establishment of salaries and benefits is an administrative and not a legislative matter, hence not subject to the initiative and referendum. (Ord. 78-67; 1968 Code § 1-117.5; 1980 Code)

3-1-306: ADMINISTRATION OF SALARY SCHEDULE: The salary and benefit program shall consist of continuing job analysis, job evaluation and job market analysis (through salary survey data). Job evaluation will occur throughout the year and reclassifications may occur at any time during the year as conditions require and as the current budget permits. (Ord. 77-32; 1968 Code § 1-117.6)

CHAPTER 3 CITY PERSONNEL

ARTICLE 1 CITY EMPLOYEES

PART 4 ADDITIONAL EMPLOYEE BENEFITS

SECTION:

- 3-1-401: Employee Insurance Benefits
 3-1-402: Reimbursement for Transportation and Moving Expense
 3-1-403: Retirement; Pensions

3-1-401: **EMPLOYEE INSURANCE BENEFITS:**

- A. Group Life Insurance. For the benefit of City employees, a group life insurance plan with the Equitable Life Assurance Society is available. This plan is mandatory for all employees upon employment with the City. Each regular employee will be insured for an amount equal to the nearest one thousand dollars (\$1,000.00) of one and one-half (1½) times his annual salary, and each temporary or part-time employee will be insured for three thousand dollars (\$3,000.00). The City shall pay the full cost of the premium. All retired employees may carry this insurance in accordance with the provisions of the contract with the Equitable Life Assurance Society. (Ord. 77-45; 1968 Code § 1-130)
- B. Group Medical Plans. The City shall offer group medical plans to all permanent and probationary employees who are employed to work twenty (20) or more hours per week. Any such employee may voluntarily enroll in one of the City's group medical plans. The City shall contribute such an amount as set forth in the annual appropriation ordinance toward an employee's monthly medical plan premium.

Upon retirement, the City will offer such employees continued coverage under an appropriate group medical insurance plan. The City contribution toward a retired employee's monthly medical plan premium shall be as follows:

1. For civil service retirees in the City plan or noncivil service retirees in the pera plan who were eligible to retire as of December 31, 1978, and who had been members of the City's medical plan for five (5) years prior to January

- B1) 1, 1979, an amount equal to the full cost of the monthly premium.

2. For civil service retirees in the City plan who become eligible to retire on or after January 1, 1979, an amount not to exceed ninety one dollars forty cents (\$91.40) per month toward the monthly premium.

3. For noncivil service retirees in the pera plan who become eligible to retire on or after January 1, 1979, an amount that on January 1, 1987, will assure that the retiree contribution to the premium cost under the pera plan is equal to what the retiree contribution to the premium cost would have been under the City plan on January 1, 1987. City contributions that are less than ninety one dollars forty cents (\$91.40) on January 1, 1987, will increase in subsequent years to an amount not to exceed ninety one dollars forty cents (\$91.40) as pera plan premiums increase. City contributions that exceed ninety one dollars forty cents (\$91.40) on January 1, 1987, as a result of the implementation of the pera plan shall not be increased. (Ord. 78-251; Ord. 82-195; Ord. 84-115; Ord. 86-209; 1968 Code § 1-131)

3-1-402: **REIMBURSEMENT FOR TRANSPORTATION AND MOVING EXPENSE:** In addition to wages paid pursuant to this Article, proper reimbursement may be made when authorized by the City Manager for necessary expenses incurred:

- A. In the use of a private automobile in the official business of the City;
- B. By a person who has been employed by the City in moving his family, himself and his household goods from his place of residence to the City;
- C. For travel and other expenses by an applicant for City employment who comes to Colorado Springs at the request of the City Manager for interviews in connection with such application for employment. (Ord. 2890; 1968 Code § 1-119)

3-1-403: RETIREMENT; PENSIONS:

- A. Any officer or employee who is a member of the Public Employees' Retirement Association shall receive, at the time of his retirement, those benefits accrued to him as a member of the Public Employees' Retirement Association. Any officers or employees who entered the service of the City prior to January 1, 1944, excepting those who are members of the Police and Fire Department pension plans, who did not elect to become members of the Public Employees' Retirement Association, shall receive at the time of their retirement, payable at the rate of fifty dollars (\$50.00) per month to the employee, an amount of money equal to the moneys which the City would have contributed in the employee's behalf to the Public Employees' Retirement Association should said employee have elected to have joined the association.
- B. In addition to the foregoing benefits, any officer or employee of the City, except those who are members of the Police and Fire Department pension plans, who was in the service of the City prior to January 1, 1944, and who is now in the service of the City, shall upon retirement and as long as he may live, receive an additional annual pension allowance which shall be computed as follows: total number of years (not to exceed 20 years) minus the number of years of service during which said officer or employee has been a participant in the Public Employees' Retirement Association, divided by twenty (20) and multiplied by one-half ($\frac{1}{2}$) of the average annual salary received by him during the five (5) years of service immediately prior to the time of his retirement, provided that in no instance shall this additional service retirement allowance exceed four dollars (\$4.00) monthly for each full year of service prior to January 1, 1944 and subsequent to January 1, 1924, and in no case shall the monthly service allowance combined with the benefits received on a fractional Public Employees' Retirement Association pension exceed the amount of a full twenty (20) years coverage benefit from the Public Employees' Retirement Association. (Ord. 2334; 1968 Code § 7-161)

CHAPTER 3 CITY PERSONNEL
ARTICLE 1 CITY EMPLOYEES
PART 5 DEFENSE OF EMPLOYEES

SECTION:

3-1-501: Criminal Actions
 3-1-502: Civil Actions

C) 78-46; Ord. 85-279; Ord. 86-34; 1968 Code §§
 1-132, 1-333, 1-134)

3-1-502: CIVIL ACTIONS:**3-1-501: CRIMINAL ACTIONS:**

A. Defense Provided. Whenever a criminal action has been brought against any City employee, or the employee has been involved in an incident which is being investigated by a law enforcement agency with a view towards the filing of criminal charges or the submission of the facts surrounding the incident to a grand jury for review, and the employee requests in writing without delay that the cost of defending such employee be borne by the City, such cost, including reasonable counsel fees and expenses, shall be so borne by the City if the City Council first find and determine that:

1. The act or omission arose out of and in the course of the employees duties;
2. The employee was acting in good faith and without malice; and
3. The cost of defending such employee serves the interest of the City.

B. Committee Investigation. To assist the City Council in making such findings and determination, a committee consisting of the City Attorney, the Safety Director and the head of the employees' department (of the City Manager if the employee charged is the head of a department) shall investigate any such criminal charge and shall make a recommendation to the City Council whether the above criteria for paying the costs of defending such employee are met.

C. Conviction; Recovery of Costs. If the criminal action results in a final conviction, no costs shall be paid by the City and any costs advanced to the employee shall be repaid to the City. (Ord.

A. Claims Arising Under State Law.

1. Whenever a claim is made against a City employee for injury or death which lies in tort or could lie in tort regardless of whether that may be the type of action chosen by the claimant, the City shall be liable for the costs of the defense of the employee, whether such defense is assumed by the City or by other counsel, in the discretion of the City; provided, that the claim against the City employee arose out of injuries sustained from an act or omission of such employee which occurred, or is alleged in the complaint to have occurred, during the performance of his duties and within the scope of his employment, except where such act or omission is wilful and wanton. If it is determined at the trial that the injuries did not arise out of an act or omission of such employee during the performance of his duties and within the scope of his employment or that the act or omission of such employee was wilful and wanton, it shall be the responsibility of the employee to reimburse the City for reasonable costs incurred by it in the defense of the employee.

2. Notwithstanding the provisions of subsection A1 of this Section, the City shall not be responsible for providing a defense to a City employee where the City is not made a party defendant in the action and the City is not notified of the existence of such action in writing by the plaintiff or the employee within fifteen (15) days after the commencement of the action. Further, the provisions of subsection A1 of this Section shall not apply where such employee of the City wilfully and knowingly fails to notify his supervisor of the incident or occurrence which led to the claim within a reasonable time after such incident or occurrence.

- A) 3. Subject to the requirements of subsection A2 above, in the event that the City elects not to assume the defense of the employee, the City nevertheless shall be liable to the employee for his reasonable attorney's fees and costs in prosecuting his own defense unless the Court determines that the injuries did not arise out of an act or omission of such employee during the performance of his duties and within the scope of his employment, or that the act or omission of the employee was wilful and wanton. If the Court determines that the defense of sovereign immunity is not or would not have been available to the City, then the City shall be liable to the public employee for any judgment or settlement against the City employee.

4. Where the City is made a co-defendant with its employee, it shall notify the employee in writing within fifteen (15) days after the commencement of the action of whether it will assume the defense of the employee. Where the City is not made a co-defendant, it shall notify the employee whether it will assume the defense within fifteen (15) days after receiving written notice from the employee of the existence of the action.

5. The City shall be liable for the payment of all judgments and settlement of claims against any of its employees where the claim against the employee arises out of injuries sustained from an act or omission of the employee occurring during the performance of his duties and within the scope of his employment, except where such act or omission is wilful or wanton, or where the defense of sovereign immunity is available to the City, and provided, that the employee does not compromise or settle the claim without the consent of the City.

6. Notwithstanding the provisions of subsection A5, the City shall be liable for the payment of all judgments in settlements of claims against any of its employees where the claim against the employees arise out of injuries sustained from an act or omission of employees occurring during the performance of their duties and within the scope of their employment, except where such act or omission is wilful or wanton, even though the defense of sovereign immunity is available, when the employees are operating an emergency vehicle within the provisions of Section 42-4-106(2) and (3), C.R.S., if the employees do not compromise or settle the claim without the consent of the City.

7. Notwithstanding anything contained in this

- A7) Section 3-1-502 to the contrary, the City shall not be liable for the payment of any exemplary damages on behalf of any City employee without the prior consent of the City Council.

B. Claims Arising Under Federal Law.

1. To the extent that the doctrine of *Respondent Superior* is applicable to any claim against a City employee arising under Federal law, the provisions set forth in subsection 3-1-502A above shall be applicable to the responsibilities of the City and the City employee with respect to the allocation of costs of defense and the payment of judgments and settlements on behalf of the City employee.

2. In the event that the claim arising under Federal law against the City employee does not involve the doctrine of *Respondent Superior*, then the City shall be responsible for providing a defense to such City employee and to pay all judgments and settlements on behalf of such City employee unless it is determined by the Court that the City employee violated a federally protected right and the employee was not entitled to immunity or did not act in good faith with respect to the act or omission which gave rise to the claim under Federal law.

3. In its discretion, the City may appoint separate counsel to represent the City employee, and shall be entitled to a reimbursement of all costs of defense so incurred by the City on behalf of the employee if it is determined by the Court that the acts or omissions of the City employee which gave rise to the claim under Federal law were in violation of a federally protected right and the employee was not entitled to immunity or did not act in good faith. Nothing herein shall require the City, in any case, to be responsible for exemplary damages awarded against a public employee for claims arising out of Federal law.

- C. Civil Action Investigation Committee. To assist the City Council in making such findings and determinations, a committee consisting of the City Attorney, the Safety and Risk Manager, and the head of the affected employee's department for the City (or the City Manager if the employee charged is the head of a department) shall cause an investigation to be made of any such civil action, and make a recommendation to the City Council whether the above criteria for paying the costs of defending the employee or the cost of payment of any judgment or settlement are required pursuant to the requirements of this Section 3-1-502. (Ord. 85-279)

CHAPTER 3 CITY PERSONNEL

ARTICLE 2 CIVIL SERVICE EMPLOYEES

PART 1 ADMINISTRATIVE RULES AND REGULATIONS

SECTION:

- 3-2-101: Civil Service Commission; Rules and Regulations
- 3-2-102: Salaries Approved by Council
- 3-2-103: Extra Duties; Pay Rate
- 3-2-104: Promotions
- 3-2-105: Sick Leave
- 3-2-106: Injury Leave
- 3-2-107: Longevity Payments
- 3-2-108: Retirement; Age Restrictions
- 3-2-109: Pensions, Generally

3-2-101: CIVIL SERVICE COMMISSION; RULES AND REGULATIONS:

- A. The Civil Service Commission of the City¹ is hereby empowered to promulgate rules and regulations pertaining to the conduct, both while on and off duty, of classified employees of the City. Such rules and regulations shall particularly pertain to the use of intoxicating liquors and narcotic drugs.
- B. The Civil Service Commission is further authorized to provide penalties in the nature of suspension without pay, discharge, fine and reduction in grade or compensation for the violation by any classified employee of any rule or regulation promulgated pursuant to subsection A of this Section. (Ord. 1548; 1968 Code § 7-154; 1980 Code)

3-2-102: SALARIES APPROVED BY COUNCIL: The City Council shall approve in the annual budget salaries for classified police and fire personnel, utilizing the job rate concept.² (Ord. 4831; 1968 Code § 1-113)

3-2-103: EXTRA DUTIES; PAY RATE:

- A. The City Manager shall establish the hourly pay rate for extra duties performed in an off-duty status.
- B. The City Manager shall establish the hourly rate to be charged to the businesses or activities hiring the City Police and Fire personnel. In establishing the hourly rate, the City Manager may consider the hourly pay rate to the policemen and firemen, as well as the additional expense incurred for all fringe benefits and administrative processing. (Ord. 75-15; Ord. 79-266; 1968 Code § 1-113.1)

3-2-104: PROMOTIONS: As to classified employees of both the Police and Fire Departments, the following provisions shall apply:

- A. No promotion from the fourth to the third class shall be made until the person promoted shall have served in the fourth class for at least one year.
- B. No promotion from the third to the second class shall be made until the person promoted shall have served in the third class for at least one year.
- C. No promotion from the second to the first class shall be made until the person promoted shall have served in the second class for at least one year. (Ord. 1116; 1968 Code § 7-2; 1980 Code)

3-2-105: SICK LEAVE:

- A. Each uniformed member of the Police and Fire Departments shall be allowed, during each

1. See City Charter, Article XVIII, § 148.

2. See Section 3-1-201 of this Chapter.

- A) year, fourteen (14) days' sick leave from his duties with full pay and said allowance of fourteen (14) days per year shall be accumulative for a maximum period of one hundred thirty two (132) days retroactive to January 1, 1970. If any portion of said sick leave is used during any year, the balance shall be accumulated as herein provided. The sick leave benefits shall be accumulative from the period commencing January 1, 1948, and the personnel and pay records of each member of the Police and Fire Departments shall be examined from said last mentioned date and computation of his accumulated sick leave made upon the basis herein set forth. The sick leave benefits of any member of said Departments entering the employment of the City after January 1, 1948, shall commence as of his date of employment. (Ord. 77-206; 1968 Code § 7-156)
- B. If any uniformed member of the Police or Fire Department is retired from his employment with the City by reason of having completed his requisite period of service with the City or having become physically unable to perform his duties as provided elsewhere in this Article, he shall receive in cash an amount equivalent to his accumulated sick leave at the rate of his base pay without longevity or other extra compensation, but this payment for sick leave accumulation shall not exceed and shall be limited to a maximum accumulation of ninety (90) days.
- C. If any uniformed member of the Police or Fire Department shall die while in service and shall leave a widow, said widow shall receive in cash an amount equivalent to the members' accumulated sick leave at the rate of his base pay not to exceed a maximum accumulation of ninety (90) days. If there shall be no widow but a dependent child or children under the age of eighteen (18) years, such payment shall be made to such child or in equal shares to such children if more than one. This subsection shall be applicable to incidents occurring on and after May 1, 1975.

- D. The accumulated sick leave payment herein mentioned shall not be considered as salary and no deduction from such payment shall be made as a contribution to the pension fund. (Ord. 76-9; 1968 Code § 7-156)

3-2-106: INJURY LEAVE: In the case of an injury to a uniformed member of the Police Department or the Fire Department which is fully compensable under the Colorado Workmen's Compensation Act, the employee shall be granted injury leave during which the City benefit shall be the difference between the State benefit and the employee's base salary plus longevity pay for a cumulative period per accident not to exceed twelve (12) months. If the injury is not fully compensable, the City benefit shall be reduced by the same percentage as the State assessed penalty. The employee may elect to utilize accrued sick leave and vacation to offset assessed penalties. (Ord. 80-60; 1968 Code § 7-156.A)

3-2-107: LONGEVITY PAYMENTS: Effective January 1, 1979, all classified employees of the Police and Fire Departments, including the Chief and deputy chiefs of the Police Department and the Chief and division chiefs of the Fire Department, shall receive, in addition to the salaries prescribed for the respective classifications, increases in pay as follows: twenty dollars (\$20.00) per month after the completion of five (5) years of service increasing at the rate of four dollars (\$4.00) per month after the completion of each subsequent year of service to a maximum of one hundred dollars (\$100.00) per month after the completion of twenty five (25) years of service. (Ord. 78-255; 1968 Code § 7-157)

3-2-108: RETIREMENT; AGE RESTRICTIONS:

- A. Every member, officer or employee of the Police and Fire Departments, except those employees occupying a position to which they have been appointed from other than civil service procedures, who has attained or attains

- A) age sixty (60) years, shall be separated from service on the first day of the calendar month next following attainment of age sixty (60) years, subject to Section 3-2-109. Upon retirement from City service, each such member, officer or employee shall be entitled to a pension as provided for herein. (Ord. 2331; 1968 Code § 7-159)
- B. Every member of the Police and Fire Departments, except those employees occupying a position to which they have been appointed from other than civil service procedures, who has attained or attains age sixty (60) years, may be continued in service for periods not to extend beyond his attainment of age sixty five (65), provided that his continuance in service is requested by the City Manager. Any employee who feels aggrieved by the decision of the City Manager shall have the right to appeal such decision to the City Council, which can either affirm the Manager's decision or order that the employee be continued in service for a period of one year upon the completion of which the City Manager may request a further continuance unless the employee has attained age sixty five (65), in which event he may receive no further continuances and shall be retired. Upon his retirement from City service, the employee shall be entitled to a pension as provided for herein. (Ord. 2331; 1968 Code § 7-160)

3-2-109: PENSIONS, GENERALLY: Any member, officer or employee who occupied a position in the Police or Fire Department to which he has been appointed from other than civil service procedures and/or who is a member of the Police or Fire Department pension plan shall receive, at such time as he may retire only, that pension to which he is entitled under the provisions of the Police or Fire Department Pension Plan. (Ord. 2334; 1968 Code § 7-161)

CHAPTER 3 CITY PERSONNEL

ARTICLE 2 CIVIL SERVICE EMPLOYEES

PART 2 POLICE DEPARTMENT, ADDITIONAL BENEFITS

SECTION:

3-2-201: Work Week; Vacation; Holidays

3-2-202: Compensation for Court Appearance

result of his duties as a member of the Police Department, to prepare for such appearance, or to perform special duty assigned by the Chief of Police, he shall be compensated at the rate of time and one-half for all time actually and necessarily spent in such activity, or a minimum of two (2) hours straight time, whichever is greater. (Ord. 4613; 1968 Code § 7-163; 1980 Code)

3-2-201: **WORK WEEK; VACATION; HOLIDAYS:**

- A. Each uniformed member of the Police Department of the City, excluding the Chief and deputy chiefs, shall be on duty an average of forty (40) hours per week. Each uniformed member of the Police Department, including Chief and deputy chiefs, having served in the Police Department for not less than one year shall be given annual vacation with full pay as follows:

1 to 5 years	12 days
6 to 10 years	14 days
11 to 15 years	17 days
16 years plus	20 days

- B. Uniformed members, including Chief and deputy chiefs, who have completed ten (10) or more years of service, shall be eligible for an option of "selling back" to the City annually, in the calendar year following the year during which the employee completed ten (10) years of service, up to forty (40) hours of vacation in lieu of taking time off. Such "sell back" shall be computed as follows: Annual base rate plus longevity, divided by fifty two (52).

- C. In addition to the foregoing, each uniformed member, including the Chief and deputy chiefs, shall annually be given seventy two (72) hours vacation in lieu of nine (9) holidays and shall be given one personal holiday (8 hours). (Ord. 77-206; 1968 Code § 7-162)

3-2-202: **COMPENSATION FOR COURT APPEARANCE:** If any member of the Police Department, while normally off duty, is required to appear as a witness in any court as a

CHAPTER 3 CITY PERSONNEL

ARTICLE 2 CIVIL SERVICE EMPLOYEES

PART 3 FIRE DEPARTMENT, ADDITIONAL BENEFITS

SECTION:

3-2-301: Vacation; Holidays

3-2-302: Compensation for Court Appearance

C) the employee completed ten (10) years of service, forty (40) hours of pay in lieu of additional vacation days off. Said pay shall be computed as follows: annual base rate plus longevity, divided by fifty two (52). (Ord. 77-206; Ord. 81-242; 1968 Code § 7-164)

3-2-301: VACATION; HOLIDAYS:

A. Each forty (40) hour week uniformed member of the Fire Department, including Chief and division chief, having served in the Fire Department for not less than one year shall be given annual vacation with full pay as follows:

1 to 5 years	12 days (96 hours)
6 to 10 years	13 days (104 hours)
11 to 20 years	14 days (112 hours)
21 plus years	15 days (120 hours)

In addition each forty (40) hour week, uniformed member of the Fire Department, including the Chief and division chiefs, shall receive a total of ten (10) holidays (8 hours each) including designated and personal holidays or equivalent time off (80 hours) in lieu of holidays annually.

B. Each twenty four (24) hour shift uniformed member of the Fire Department having served in the Fire Department for not less than one year shall be given vacation with full pay as follows:

Six (6) twenty four (24) hour shifts (144 hours) annually.

Each twenty four (24) hour shift uniformed member shall be given three and one-third (3 ⅓) twenty four (24) hour shifts (80 hours) annually in lieu of nine (9) holidays and one personal holiday.

C. All uniformed members of the Fire Department, including the Chief and division chiefs, who have completed ten (10) or more years of service, shall receive annually beginning in the calendar year following the year during which

3-2-302: COMPENSATION FOR COURT

APPEARANCE: If any member of the Fire Department, while normally off duty, is required to appear as a witness in any court as a result of his duties as a member of the Fire Department, to prepare for such appearance, or to perform special duty assigned by the Fire Chief, he shall be compensated at the rate of time and one-half for all time actually and necessarily spent in such activity, or a minimum of two (2) hours straight time, whichever is greater. (1980 Code)

CHAPTER 3 CITY PERSONNEL

ARTICLE 2 CIVIL SERVICE EMPLOYEES

PART 4 POLICE PENSION FUND

SECTION:

- 3-2-401: Fund Created; Board Established
- 3-2-402: Election of Members
- 3-2-403: Officers and Advisors of the Board
- 3-2-404: Board Trustee of Funds; Report
- 3-2-405: Disposition of Moneys
- 3-2-406: Recipients of Benefits
- 3-2-407: Sources of Revenue for the Fund
- 3-2-408: Retirement Pension
- 3-2-409: Benefits When Former Rank Abolished
- 3-2-410: Disability Benefits
- 3-2-411: Benefits to Dependents
- 3-2-412: Return of Contributions
- 3-2-413: Council May Change, Repeal Provisions
- 3-2-414: Work Hours, Sick Leave Benefits
Not Affected
- 3-2-415: Benefits, Regulations of
- 3-2-416: Temporary Appointments
- 3-2-417: State Statutes Superseded

3-2-401: FUND CREATED; BOARD ESTABLISHED: There is hereby created the Policemen's Pension Fund which shall be administered by a Board composed of the City Manager and two (2) members of the Police Department under such rules and regulations as may be approved by the City Council. Said Board shall be designated "The Policemen's Pension Fund Board". (Ord. 77-66; 1968 Code § 7-167)

3-2-402: ELECTION OF MEMBERS: A member of the Police Department shall be elected annually to the Policemen's Pension Fund Board for a term of two (2) years; provided, however, that initially two (2) members of the Police Department shall be elected, one for a two (2) year term and one for a one year term, so that annually thereafter one member shall be elected for a two (2) year term. Said election shall be held in the following manner: the election shall be held on the first Tuesday in December. The secretary of the Board shall post

notices of election in conspicuous places within the Police Department of the vacancy on the Board forty five (45) days prior to the date of election. The notice shall specify the date of election and the manner and method of voting and counting of votes, which shall be established by the Board for each election. Any candidate for the vacancy shall submit a letter to the secretary declaring his candidacy not less than thirty (30) days before the election. Upon receipt of a letter declaring a candidacy, the secretary shall post such letter along with the candidate's years of service in conspicuous places within the Police Department. The candidate receiving the highest number of votes shall be declared the winner and the secretary shall post the results of the election. The newly elected members shall take office on the first day of January of the year immediately following the election. (Ord. 77-66; 1968 Code § 7-168)

3-2-403: OFFICERS AND ADVISORS OF THE BOARD:

- A. President, Secretary. The City Manager shall be President of the Board, and the secretary of the Board shall be appointed by the Chief of Police. The secretary need not be a member of the Fund. (Ord. 77-66; 1968 Code § 7-170)
- B. City Attorney to Advise Board. It shall be the duty of the City Attorney to give advice to the Board in all matters pertaining to its duties and the management of said Fund whenever required. He shall represent and defend said Board as its attorney in all suits or actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined by said Board. (Ord. 77-66; 1968 Code § 7-171)
- C. City Treasurer, Custodian. The City Treasurer shall be custodian of all funds, securities and other property belonging to said Fund and shall be liable upon his official bond therefor. The Treasurer shall hold all securities and other property belonging to said Fund subject only to

- C) the written order of said Board as witnessed by the signature of the President thereof and attested by its secretary. The Treasurer shall pay out money in said Fund only on warrants duly drawn by the Controller. The Controller shall draw warrants on said Fund upon vouchers duly authenticated by the signature of the President of said Board, attested by the secretary thereof. No such voucher shall be made, or orders made on the securities and other property held by the Treasurer without a record of the same being first made in the minute book of the proceedings of the Board which shall be kept by the secretary of said Board. The Treasurer shall keep such books of accounts and records as the Board shall prescribe. All books relating to said funds shall at all times be subject to inspection by the Board or any member thereof, or other interested person. Upon removal from office, the Treasurer shall deliver to his successor all moneys, securities and other property, including books and records belonging to said Fund, and said Board shall do likewise as to its successors. (Ord. 77-66; 1968 Code § 7-173)

3-2-404: BOARD TRUSTEE OF FUNDS; REPORT:

The Policemen's Pension Fund Board shall be the trustee of all moneys, securities and other property belonging to the Fund and, at the last meeting of the City Council in August of each year, shall report to the City Council as to the condition of the Fund. (Ord. 77-66; 1968 Code §§ 7-169, 7-172)

3-2-405: DISPOSITION OF MONEYS:

- A. Moneys Not Transferred. Moneys remaining at the end of any fiscal year in said Fund shall not be transferred to any other fund.
- B. Investment of Funds. The Policemen's Pension Fund shall be invested only in bonds, warrants, securities, obligations and other investments or deposits or accounts as may be from time to time authorized by law and as determined and approved by the Board. (Ord. 77-66; 1968 Code §§ 7-174, 7-175)

3-2-406: RECIPIENTS OF BENEFITS: No person shall be entitled to the benefits of this Part 4 unless he is now or shall hereafter become a regularly employed member of the Police Department of the City under the classified civil service. For purposes of this Part 4, a regularly employed member shall mean a member who has

been sworn into duty. (Ord. 77-66; 1968 Code § 7-176)

3-2-407: SOURCES OF REVENUE FOR THE FUND: There shall be paid into and credited to said Fund money derived from the following sources:

- A. All proceeds from sales of unclaimed property.
- B. All moneys received from fines for carrying concealed weapons.
- C. All moneys received from fines imposed upon members of the Police Department for violations of the rules and regulations of the Department.
- D. Fifty percent (50%) of outside awards collected by any member of the Police Department. (Ord. 77-66; 1968 Code § 7-177)
- E. Each member of the Police Department hired before April 7, 1978 shall pay into the Fund monthly ten percent (10%) of his salary including longevity pay and such payments shall be made by deduction from his salary. Each member of the Police Department hired after April 7, 1978 shall pay into the Fund monthly eight and one quarter percent (8¼%) of his salary including longevity pay and such payment shall be made by deduction from his salary. (Ord. 79-248; Ord. 83-320; Ord. 84-310; 1968 Code § 7-177)
- F. The City Council annually shall appropriate to said Fund an amount which shall be equivalent to the amount collectible by the assessment of one mill upon all the assessable property within the City.
- G. All moneys received from the sale of confiscated weapons in accordance with Section 21-7-107 of this Code. (Ord. 77-66; 1968 Code § 7-177)

3-2-408: RETIREMENT PENSION:

- A. Any member of the Police Department who shall have served twenty five (25) years or more of active duty and shall have attained the age of fifty (50) years, shall be retired within thirty (30) days after making application for retirement, except during periods of national emergency, and such person shall be paid a monthly pension equal to one-half (½) the amount of the monthly salary and longevity pay said person received as a member of said

- A) Department as of the date of application for retirement. For so long as said member of said Department is in retirement, there shall be added to the amount of pension as stated above one-half ($\frac{1}{2}$) of any increase in salary and longevity or additional pay based on length of service granted to the rank formerly occupied by him in said Department. Monthly salary as used in this subsection shall not include proficiency pay, merit pay or any other extra pay, however denominated, for exemplary service. (Ord. 79-37; 1968 Code § 7-178)
- B. Any member or former member of said Department, who on the effective date of this amendment is receiving a pension or annuity from the Fund by reason of retirement, shall likewise receive a monthly pension or annuity from the Fund equal to one-half ($\frac{1}{2}$) of the current monthly salary paid to the rank said member occupied on the date of his retirement plus one-half ($\frac{1}{2}$) of all longevity or additional pay which would have accrued to any member by reason of similar length of service in the Police Department under any pertinent longevity or additional pay provision currently in effect in the City, plus one-half ($\frac{1}{2}$) of any increase in salary and longevity or additional pay based on length of service granted during the period of his retirement to the rank occupied by him in said Department. Said pension shall continue to be paid as long as the member is in retirement. (Ord. 77-66; 1968 Code § 7-178)

3-2-409: **BENEFITS WHEN FORMER RANK**

ABOLISHED: When for any reason the rank or grade within the Police Department is abolished or ceases to exist then any member of such Department who is in receipt of a pension or annuity from the Fund by reason of retirement in such classification, grade or rank and any member of such Department who may be retired in the future in said classification, grade or rank shall each receive his regular pension payment for the grade or rank occupied at the time of his retirement as provided in this Part 4. In addition, such member of the Police

Department shall receive additional benefits as follows: the fraction which such member's regular pension payment for the grade or rank occupied at the time of his retirement as provided in this Part 4 bears to the regular pension payment for the next higher rank at such time shall be computed. Such member shall receive one-half ($\frac{1}{2}$) of any increase in salary and longevity pay or additional pay based on length of service granted to the next higher rank or grade in such Department multiplied by the fraction as above computed; but, if the next higher and next lower ranks or grades of the Department receive equal money increases, then such member shall receive one-half ($\frac{1}{2}$) of any increase without multiplication of the fraction above computed. A member of such Department who, on the effective date of this amendment is in receipt of a pension or annuity from the Fund by reason of retirement in a rank or grade which has been abolished or has ceased to exist, shall have his benefits as above described recomputed, and any additional moneys to which he is entitled shall be paid to him as if this provision were in effect at the date of his application for retirement. (Ord. 77-66; 1968 Code § 7-179)

3-2-410: **DISABILITY BENEFITS:¹**

A. Disability Incurred on Duty.

1. Any member of the Police Department who while in the performance of his assigned duty becomes permanently disabled from any cause not intentionally self-inflicted nor due to habitual use of intoxicants or drugs, resulting in permanent incapacity to perform his assigned duties, shall be retired by the Board. Any member of the Police Department who has completed five (5) years or more as a member of said Department, but who is unable to perform his duties by reason of heart disease shall be presumed, unless such presumption is overcome by competent evidence, to have contracted said disease while on active duty as a result of strain and shall be retired by the Board. (Ord. 79-37; 1968 Code § 7-180)

2. In cases where a special position or assignment can or may be assigned to such

1. This Section has been superseded by State Statute as to those classified employees who die or become disabled on or after January 1, 1980. See C.R.S. 1973 §§ 31-30-1001 et seq. (S.B. 79, enacted June 22, 1979)

A,2) member, he may be assigned to such special position or assignment. Any such retirement shall be for the period of the disability and no longer.

3. Said member, whether now or hereafter retired under this Section, shall be paid a monthly pension equal to one-half ($\frac{1}{2}$) the amount of his monthly salary and longevity pay as of the date of his retirement plus one-half ($\frac{1}{2}$) of any increase in salary and longevity or additional pay based on length of service granted during the period of his retirement to the rank occupied by him in said Department. Said retired member, after retirement, shall continue to accrue longevity and his length of service shall continue to extend in the same manner and with the same limitations as if he were still active and not retired. Said pension shall continue to be paid as long as the member is in retirement.

4. All applicants for disability pensions shall be examined by one or more physicians selected for the purpose by the Board, and may be examined by one or more physicians selected by the applicant. All expenses of examination by the physician chosen by the Board shall be paid by the Board out of said Fund.

5. The Board shall establish such general rules and regulations as it deems proper for the purpose of re-examination of all persons who have been retired for disability or who may be so retired hereafter to determine from time to time the fitness of such persons to return to active duty in said Department. No such person who has reached the age of fifty (50) years either before or after his retirement shall be re-examined. No such person who has completed twenty five (25) years of active duty in said Department before the date of such retirement shall be re-examined. No person on the retired list shall be examined sooner than one year after date of retirement and not more frequently than once a year thereafter. In the event it is found by said Board that any member on the retired list has recovered from the disability which caused his retirement, such

A,5) person if he is under fifty (50) years of age and has served less than twenty five (25) years of active duty shall be removed from the retired list and ordered to report to the Chief Officer of said Department within thirty (30) days for assignment to active duty. During said period of thirty (30) days, such member may file a written protest in which he shall state any objection that he may have to his removal from the retired list. The decision of said Board shall be suspended pending a hearing on said protest, at which hearing such member shall have a right to appear and to be represented by counsel. During the period that any member is ordered retired for disability by said Board, such member if under the age of fifty (50) years and having served less than twenty five (25) years of active duty shall be carried on a special roll of the Police Department and listed as inactive.

B. Disability Incurred Off Duty. Any member of the Police Department who is found to be permanently and totally disabled by injuries not received while on his assigned duties in the Police Department shall be paid so long as the disability shall last according to the following formula: two and one-half percent ($2\frac{1}{2}\%$) of the monthly salary and longevity pay multiplied by the number of years of service already credited, to a maximum of fifty percent (50%) of the monthly salary and longevity pay being received at the time of disability. There shall be added to such benefit two and one-half percent ($2\frac{1}{2}\%$) of any increase in salary and longevity pay granted during the period of his retirement to the rank occupied by him in said Department multiplied by the number of years of service credited at the time of disability, but in no event shall said member receive in excess of fifty percent (50%) of any salary and longevity pay increase; provided, however, that when a member is disabled off duty during employment with another employer and is receiving payments under Workmen's Compensation or any other compensatory plan provided by such employer with respect to such injury, such member's disability pension from the City shall abate to the extent of such other disability compensation which is

- B) furnished by such other employer. The provisions covering examinations and re-examinations as set forth in subsection A of this Section shall be applicable to all cases arising under this subsection B. No disability payments shall be payable where the disability is intentionally self-inflicted or due to the habitual use of intoxicants or drugs.
- C. The benefits provided in subsections A and B above shall commence immediately and accrued sick leave shall be compensated as provided by Section 3-2-105. (Ord. 77-66; 1968 Code § 7-180)

3-2-411: BENEFITS TO DEPENDENTS:¹

- A. Death in Service. If any member of the Police Department shall die while in service and shall leave a spouse but no children, said spouse shall receive from the departmental pension fund one-third ($\frac{1}{3}$) of the monthly salary and longevity pay such member received at the time of such member's death or one hundred fifty dollars (\$150.00) per month, whichever is greater, until said spouse remarries. The spouse's pension provided herein shall be subject to increases computed in the same manner as for the member's pensions under Section 3-2-408 and 3-2-409 of this Part 4, except that a spouse shall receive one-third ($\frac{1}{3}$) of any increase rather than one-half ($\frac{1}{2}$).

Where such member at the time of his death is survived by a spouse and a child or children under eighteen (18) years of age, there shall be paid to each child thirty dollars (\$30.00) monthly in addition to the spouse's pension; where there is no spouse surviving but there are children under age eighteen (18), then the spouse's pension provided hereunder shall be prorated among such child or children or they shall receive thirty dollars (\$30.00) monthly each, whichever is greater. (Ord. 77-66; 1968 Code § 7-181)

- B. Death After Retirement. When any retired member of the Police Department who is drawing a pension hereunder shall die and shall leave a spouse surviving, said spouse shall receive one hundred fifty dollars (\$150.00)

- B) monthly or two-thirds ($\frac{2}{3}$) of the member's pension, whichever is greater, until said spouse remarries. The spouse's pension provided by this Section shall be increased in proportion to any increase in members' pensions under Sections 3-2-408 and 3-2-409 of this Part 4.

Where such member at the time of his death is survived by a spouse and a child or children, there shall be paid to each child thirty dollars (\$30.00) monthly in addition to the spouse's pension; where there is no spouse surviving but there are children under age eighteen (18), then the spouse's pension provided hereunder shall be prorated among such child or children or they shall receive thirty dollars (\$30.00) monthly each, whichever is greater. For purposes of this Section, the term "spouse" shall include only the spouse who was married to the pensioner at the time of his retirement. (Ord. 77-66; 1968 Code § 7-182)

- C. Limitation on Benefits for Surviving Children. All benefits provided under this Part 4 for surviving children shall terminate upon the eighteenth birthday of any such surviving child. (Ord. 77-66; 1968 Code § 7-183)

3-2-412: RETURN OF CONTRIBUTIONS:

- A. Whenever any member shall terminate his employment with the Police Department for reasons other than death or retirement, his total contributions due to date of such termination shall be returned to him without interest.
- B. If a member of the Police Department shall die while on active service with such Department with no spouse or children surviving him, his contributions under this plan shall be paid without interest to his estate.
- C. If a retired member shall die without a spouse or children surviving him there shall be paid to his estate the excess of his contribution remaining after deduction therefrom of any retirement benefits already received by him. If any member of the Police Department who has received a refund from the Pension Fund shall again become a member of the Police Department he shall, before becoming a

1. This Section has been superseded by State Statute as to those classified employees who die or become disabled on or after January 1, 1980. See C.R.S. 1973 §§ 31-30-1001 et seq. (S.B. 79, enacted June 22, 1979)

- C) member of the Police Department, pay into the Pension Fund the same amount of money that he was refunded pursuant to this Section. (Ord. 77-66; 1968 Code § 7-184)

3-2-413: COUNCIL MAY CHANGE, REPEAL PROVISIONS: The Council shall have power at any time to change or repeal any of the provisions of this Part 4 including those prescribing the terms, conditions and amounts to be paid to or from said Fund, notwithstanding service in said Department, or donation or payment into said Fund of any amount by such officer, member or employee or any other person. Any increase or decrease in the amount of benefits payable under this Part 4 shall be made as the Council shall deem necessary to accord with changing financial and economic conditions; provided, that no pensioner whose rights are vested shall be paid less than the amount of the pension originally paid upon attainment of eligibility for benefits, and provided further that the percentage of members' contribution under this plan shall never exceed the percentage of contributions to pension plans made by employees of City departments other than Police and Fire. (Ord. 77-66; 1968 Code § 7-185)

3-2-414: WORK HOURS, SICK LEAVE BENEFITS NOT AFFECTED: This Part 4 shall not be construed to repeal work hours, sick leave or other fringe benefits provided elsewhere in this Chapter, nor to affect any rights already vested. (Ord. 77-66; 1968 Code § 7-186)

3-2-415: BENEFITS, REGULATIONS OF:

- A. Benefits Prorated When Funds Insufficient to Pay in Full. If at any time the money, security and other property to the credit of said Fund be insufficient to make the monthly payments accruing hereunder, then the beneficiaries shall equally prorate such funds until such time as the condition of said Fund warrants the payment of their benefits in full. Arrearages of benefits for one year may be paid in any future year and shall enter into and form part of the basis of distribution for such year but shall not otherwise be preferred.

- B. Benefits Not Subject to Levy or Attachment. No portion of said Fund shall before or after its order for distribution be held, seized, taken or subjected to or detained, or levied upon by virtue of any attachment, execution, writ, interlocutory, or other order or decree or any process or proceeding whatever issued out of or by any court in this or any other state, for the payment or satisfaction, in whole or part, of any debt, claim, demand or judgment against any beneficiary of said Fund, but said Fund shall be held and distributed for the purpose of this Part 4 and for no other purpose whatever. (Ord. 77-66; 1968 Code §§ 7-187, 7-188)

3-2-416: TEMPORARY APPOINTMENTS: Whenever a temporary appointment is made to the Police Department under the rules of the Civil Service Commission no deduction shall be made from the salary of the temporary appointee for the Policemen's Pension Fund and such temporary appointee shall receive no benefits or payments from the Fund and shall have no claim against the Fund. (Ord. 77-66; 1968 Code § 7-189)

3-2-417: STATE STATUTES SUPERSEDED: Pursuant to the powers vested in the City by the provisions of Article XX of Section 6 of the Constitution of the State of Colorado and the Charter of the City, C.R.S. 1973 § 31-30-601 et seq. as amended, is hereby expressly superseded and does not apply to the City, it being the intention of Council in regard to this Part 4 that the Policemen's Pension Fund shall be in lieu of and not supplemental to any plan by statute provided. (Ord. 77-66; 1968 Code § 7-191)

CHAPTER 3 CITY PERSONNEL

ARTICLE 2 CIVIL SERVICE EMPLOYEES

PART 5 ALTERNATE POLICE PENSION PLAN

SECTION:

- 3-2-501: Applicability of Provisions
- 3-2-502: Definitions
- 3-2-503: Retirement Pension
- 3-2-504: Return of Contributions; Vested Rights
- 3-2-505: Disability Benefits
- 3-2-506: Benefits to Dependents
- 3-2-507: Allocation of Contributions

Department of Labor for the Denver/Colorado Springs area, but not to exceed three percent (3%) per year. No cost of living adjustment as provided in this Part 5 shall be payable until the member has reached the age of sixty five (65), or if the member elects to retire prior to age fifty five (55), ten (10) years after the date of retirement. (Ord. 78-218; 1968 Code § 7-192)

3-2-501: **APPLICABILITY OF PROVISIONS:**

The provisions of this Part 5 shall apply to all members hired by the Police Department after April 7, 1978. The provisions of Part 4 of this Article shall continue to apply to all members hired by the Police Department after April 7, 1978 except as superseded by this Part 5. (Ord. 78-218; 1968 Code § 7-192.6)

3-2-502: **DEFINITIONS:**¹ For the purposes of this Part 5:

FINAL AVERAGE SALARY: The average monthly base salary and longevity pay said member is in receipt of as a member of the Department for eighteen (18) months prior to the order of retirement, or prior to the date the member leaves the Department for reasons other than death or retirement. If the member has less than eighteen (18) months of service, final average salary shall be the average monthly base salary for the period of time said member was a member of the Department. Monthly salary shall not include proficiency pay, merit pay or any other extra pay however denominated for exemplary service. (Ord. 79-37; 1968 Code § 7-192)

COST OF LIVING ADJUSTMENT: A cost of living adjustment limited to the percentage of annual increase in the cost of living, determined to the nearest one-half (½) of one percent (1%) as of January 1 of each year as shown by the then current consumer price index prepared by the United States

3-2-503: **RETIREMENT PENSION:**

- A. Any member of the Police Department who shall have served twenty five (25) years or more of active duty and shall have attained the age of fifty five (55) years shall be retired within thirty (30) days after making application for retirement except during periods of national emergency, and such person shall be paid a monthly pension equal to one-half (½) the amount of his final average salary. For so long as said member of said Department is receiving a retirement pension he shall be entitled to a cost of living adjustment payable at the time as provided in Section 3-2-502.
- B. A member who continues to be employed after having served twenty five (25) years of active service shall be entitled to an additional benefit of one percent (1%) of his final average salary for every full year of employment after twenty five (25) years of service to a maximum of sixty percent (60%).
- C. Any member who has completed at least twenty (20) years of active service and who has attained the age of fifty (50) years may elect to retire from active service but shall not receive the full retirement pension provided by subsection A of this Section. The retirement pension for a member making the election provided by this subsection shall be the retirement pension provided by subsection A of this Section reduced by one-half (½) of one percent (1%) per month of the retirement pension for each month or portion thereof that

¹ For definitions of general application, see Section 1-1-203 of this Code.

- C) such member lacks to attain the age of fifty five (55) years at the time of such election.
- D. Any member who has completed ten (10) years of service by age fifty five (55) but would not be able to complete twenty five (25) years of service by age fifty five (55) may nevertheless retire at age fifty five (55) or later, in which event said member shall receive a pension equal to two percent (2%) for each year of credited service, but not to exceed one-half (½) the amount of his final average salary. there shall be added to any pension received under this subsection a cost of living adjustment, said cost of living adjustment payable at the time as provided in Section 3-2-502. (Ord. 78-218; Ord. 83-97; 1968 Code § 7-192.1)

3-2-504: RETURN OF CONTRIBUTIONS; VESTED RIGHTS:

Whenever any member shall terminate his employment with the Police Department for reasons other than death or retirement, his total contributions due to date of such termination shall be returned to him with interest thereon at the rate of five percent (5%) per annum; provided, however, that any member having ten (10) or more years credited service may leave his contribution and upon reaching the age of fifty five (55) years shall receive a pension equal to two percent (2%) per year for each year of credited service, but not to exceed one-half (½) the amount of his final average salary. There shall be added to any pension received under this Section a cost of living adjustment, said cost of living adjustment payable at the time as provided in Section 3-2-502. (Ord. 78-218; 1968 Code § 7-192.2)

3-2-505: DISABILITY BENEFITS:¹

A. Disability Incurred on Duty.

1. Any member of the Police Department who while in the performance of his assigned duty becomes permanently disabled from any cause not intentionally self-inflicted nor due to habitual use of intoxicants or drugs resulting in permanent incapacity to perform his assigned duties shall be retired by the Board. Any member of the Police Department who has completed five (5) years or more as a member of said Department but who is unable to perform his duties by reason of heart disease shall be presumed, unless such presumption is overcome by competent evidence, to have contracted said disease while on active duty as a result of strain and shall be retired by the Board.

2. In cases where a special position or assignment can or may be assigned to such

- A,2) member he may be assigned to such special position or assignment.

3. Said retired member shall be paid a monthly pension equal to one-half (½) the amount of his final average salary. For so long as said member of said Department is receiving a retirement pension he shall be entitled to a cost of living adjustment payable at the time as provided in Section 3-2-502.

4. All applicants for disability pension shall be examined by one or more physicians selected for the purpose by the Board and may be examined by one or more physicians selected by the applicant. All expenses of examination by a physician chosen by the Board shall be paid by the Board out of said Fund.

5. The Board shall establish such general rules and regulations as it deems proper for the purpose of re-examination of all persons who have been retired for disability or who may be so retired hereafter to determine from time to time the fitness of such persons to return to active duty in said Department. No person who has reached the age of fifty five (55) years either before or after his retirement shall be re-examined. No such person who has completed twenty five (25) years of active duty in said Department before the date of such retirement shall be re-examined. No person on the disability retired list shall be examined sooner than one year after date of retirement and not more often than once a year thereafter. In the event it is found by said Board that any member on the retirement list has recovered from the disability which caused his retirement, such person, if he is under fifty five (55) years of age and has served less than twenty five (25) years of active duty, shall be removed from the retired list and ordered to report to the Chief of Police within thirty (30) days for assignment to active duty. During said period of thirty (30) days such member may file a written protest in which he shall state any objection that he may have to his removal from the retired list. The decision of said Board shall be suspended pending a hearing on said protest at which hearing such member shall have the right to appear and be represented by counsel. During the period that any member is ordered retired for disability by said Board, such member, if under the age of fifty five (55) years and having served less than twenty five (25) years of active duty, shall be carried on a special roll of the Police Department and listed as inactive.

- B. Disability Incurred Off Duty. Any member of the Police Department who becomes permanently disabled from any cause while not

1. This Section has been superseded by State Statute as to those classified employees who die or become disabled on or after January 1, 1980. See C.R.S. 1973 §§ 31-10-1001 et seq. (S.B. 79, enacted June 22, 1979).

- B) in the performance of his assigned duty resulting in permanent incapacity to perform his assigned duties in the Police Department shall be paid so long as the disability shall last according to the following formula: two percent (2%) of his final average salary multiplied by the number of years of service already credited to a maximum of fifty percent (50%) of his final average salary. In addition, said member shall receive a cost of living adjustment, said cost of living adjustment payable at the time as provided in Section 3-2-502; provided, however, that when a member is disabled off duty during employment with another employer and receives payments under Workmen's Compensation or any other compensatory plan provided by such employer in respect to such injury, such member's disability pension from the City shall abate to the extent of such other disability compensation which is furnished by such other employer. The provisions covering examinations and re-examinations as set forth in subsection A of this Section shall be applicable to all cases arising under this subsection. No disability payments shall be payable where the disability is intentionally self-inflicted or due to the habitual use of intoxicants or drugs.
- C. The benefits provided in subsections A and B above shall commence immediately upon the order of retirement and accrued sick leave shall be compensated as provided by Section 3-2-105. (Ord. 78-218; 1968 Code § 7-192.3)

3-2-506: **BENEFITS TO DEPENDENTS:¹**

- A. If any member of the Police Department dies from a service-connected cause the spouse of such member shall receive a monthly benefit equal to one-half ($\frac{1}{2}$) the amount of the member's final average salary. The spouse's pension provided herein shall be subject to a cost of living adjustment, said cost of living adjustment payable ten (10) years after the spouse's eligibility for the pension benefit.
- If such member has no spouse on the date of death or if the spouse subsequently remarries or dies, the member's children if under the age of eighteen (18) years or twenty three (23) years if unmarried and a full-time student in an

- A) accredited institution of higher education shall receive an equal share of the spouse's benefit. Whether or not the member dies from a service-connected cause shall be determined by the Board.
- B. If any member of the Police Department dies from a nonservice-connected cause, the spouse of such member shall receive a monthly benefit equal to fifty percent (50%) of the monthly retirement benefit to which said deceased member would have been entitled had he retired the day preceding the date of his death, even though he might not have attained an age to become eligible for retirement. The member's retirement benefit shall be based on two percent (2%) of his final average salary multiplied by the number of years of service already credited to a maximum of fifty percent (50%) of his final average salary; provided, however, that the spouse's benefit shall not be less than twenty five percent (25%) of the member's final average salary. The spouse's benefit shall be effective from the later date of either the member's death or the spouse's first eligibility therefor. The spouse shall be eligible on or after said spouse's attainment of age sixty (60) years if said member had less than ten (10) years credited service; or age fifty five (55) years if said member had less than fifteen (15) but ten (10) years or more credited service; or age fifty (50) years if said member had fifteen (15) or more years of credited service. If said spouse is found by the Board to be mentally or physically incapacitated from gainful employment said benefits shall be paid notwithstanding the above age requirements.
- C. If such deceased member leaves a spouse who had in his or her care said deceased member's unmarried child under the age of eighteen (18) or under the age of twenty three (23) years if such child is unmarried and a full-time student in an accredited institution of higher education the spouse shall receive a benefit of forty percent (40%) of the member's final average salary so long as there is one qualified child, or fifty percent (50%) of the member's final average salary so long as there are two (2) or more qualified children in the care of said spouse. In no case shall the benefit be less than two hundred fifty dollars (\$250.00) per month. If the spouse dies or remarries while having the care of such qualified child, such child shall

1. This Section has been superseded by State Statute as to those classified employees who die or become disabled on or after January 1, 1980. See C.R.S. 1973 §§ 31-10-1001 et seq. (S.B. 79, enacted June 22, 1979)

- C) receive a benefit of twenty five percent (25%) of the member's final average salary. If there are two (2) such children, the total benefit shall not exceed forty percent (40%) of the member's final average salary, each such child to derive an equal share thereof. If there are three (3) or more children, the total benefit shall not exceed fifty percent (50%) of the member's final average salary, each such child to derive an equal share thereof. In no event shall the benefit payable to such children be less than two hundred fifty dollars (\$250.00) per month if there are three (3) or more children, or less than one hundred dollars (\$100.00) per month to each child if there are less than three (3) children. Any such benefit payable to a child shall terminate upon his adoption, marriage, death or attainment of age eighteen (18) years unless said child is a full-time student in an accredited institution of higher education, in which case the benefit will terminate upon graduation or upon the child's twenty third (23) birthday, whichever occurs first. If any child regardless of age is found by the Board to be so mentally or physically incapacitated that he cannot provide for himself, the benefit shall be paid for the life of such child or until any disability is removed as may be determined by the Board, or until such child is deceased, married or adopted. The spouse who has in his or her care such child shall receive the spouse's benefit provided for in this Section beyond the child's eighteenth (18) birthday in lieu of receiving the spouse's benefit under subsection B.
- D) If such deceased member leaves an unmarried child under age eighteen (18) or under age twenty three (23) if such child is a full-time student in an accredited institution of higher education and no benefits have been payable under subsections B and C on account of said member's death, such child shall receive a benefit of twenty five percent (25%) of the deceased member's final average salary. If there are two (2) such children, each child shall receive a benefit of an equal share of forty percent (40%) of the deceased member's final average salary. If there are three (3) or more such children, each child shall receive a benefit of an equal share of fifty percent (50%) of the deceased member's final average salary. In no event shall the benefit payable to such children be less than two hundred fifty dollars (\$250.00)
- D) per month if there are three (3) or more children, or less than one hundred dollars (\$100.00) per month to each child if there are less than three (3) children. Any such benefit payable to a child shall terminate upon his adoption, marriage, death or attainment of age eighteen (18) years, unless said child is a full-time student in an accredited institution of higher education in which case the benefit shall terminate upon graduation or the child's twenty third (23) birthday, whichever occurs first. If any child regardless of age is found by the Board to be so mentally or physically incapacitated that he cannot provide for himself after reaching age eighteen (18), the benefits shall be paid for the life of the child or until any disability is removed, as may be determined by the Board or until such child is deceased, married or adopted.
- E. Upon the death of a retired participating member, whether retired for disability or age, the spouse of such retired member shall be entitled to receive a benefit equal to seventy percent (70%) of the retirement benefit being paid to the retired member at the time of death. If such member has no spouse on the date of death or if the spouse subsequently remarries or dies, the retired member's children shall receive an equal share of the spouses' benefit as long as such child is under the age of eighteen (18) or twenty three (23) if unmarried and a full-time student in an accredited institution of higher education.
- F. For purposes of this Section the term "spouse" shall include only the spouse who is married to the pensioner at the time of his retirement.
- G. Remarriage of a spouse shall terminate the spouse's right to receive any benefits under this Section. Each child's share or right to a share of any benefit under this Section shall terminate when the child is adopted, married or reaches the age of eighteen (18) or twenty three (23) if a full-time student in an accredited institution of higher education.
- H. If any participating member, whether active or retired for age or disability, dies and has no spouse or children on the date of death, or such spouse or children are not qualified under this Section to receive any benefits, no survivor's

- H) benefits shall be paid or payable from the Fund. Any accumulated contributions made by the member shall be refunded to the member's estate.
- I. No death of any participating member shall be considered service-connected if the death was intentionally self-induced or due to the habitual use of intoxicants or drugs. (Ord. 78-218; 1968 Code § 7-192.4)

3-2-507: ALLOCATION OF CONTRIBUTIONS:

All contributions allocated to this Alternate Pension Plan from whatever source shall be segregated from any other pension plan funds of the Police Department. (Ord. 78-218; 1968 Code § 7-192.5)

CHAPTER 3 CITY PERSONNEL
ARTICLE 2 CIVIL SERVICE EMPLOYEES
PART 6 FIREMEN'S PENSION FUND

SECTION:

- 3-2-601: Fund Created; Administration
 3-2-602: Contributions to Fund
 3-2-603: Benefits, Disposition of Funds

3-2-601: FUND CREATED; ADMINISTRATION:

- A. There is hereby created and established "The Firemen's Pension Fund of the City of Colorado Springs" which Fund shall be operated, managed and controlled as provided by Title 31, Article 30, Part 5 of the Colorado Revised Statutes, 1973 as amended, except as hereinafter provided.¹
- B. For the purpose of implementing C.R.S. 1973, 31-30-502 providing for the Board of Trustees of the Firemen's Pension Fund, the City Manager shall be deemed to be the person performing the duties of the "Manager of Safety", the City Treasurer shall be deemed to be the person performing the duties of the "Manager of Revenue", the City Controller shall be deemed to be the person performing the duties of the City Auditor and one of the two (2) regular members of the Fire Department on the Board shall be a member of the Alternate Firemen's Pension Plan. (Ord. 78-220; Ord. 83-248; 1968 Code § 7-194)

3-2-602: CONTRIBUTIONS TO FUND: Each member of the Fire Department hired before April 7, 1978 shall pay into the fund monthly ten percent (10%) of his salary including longevity pay, and such payment shall be made by deduction from his salary. Each member of the Fire Department hired after April 7, 1978 shall pay into the Fund monthly eight and one-quarter percent (8¼%) of his salary including longevity pay and such payment shall be made by deduction from his salary. (Ord. 79-248; Ord. 83-320; Ord. 84-310; 1968 Code § 7-194)

3-2-603: BENEFITS, DISPOSITION OF FUNDS:

Whenever any member of the Fire Department shall terminate his employment with the Fire Department for reasons other than death or retirement, his total contributions due to date of such termination shall be returned to him without interest. If a member of the Fire Department shall die while on active service with such Department with no spouse or children surviving him, his contributions under this plan shall be paid without interest to his estate. If a retired member shall die without a spouse or children surviving him there shall be paid to his estate the excess of his contribution remaining after deduction therefrom of any retirement benefits already received by him. If any member of the Fire Department who has received a refund from the Pension Fund shall again become a member of the Fire Department, he shall before becoming a member of the Fire Department pay into the Pension Fund the same amount of money that he was refunded pursuant to this Section. (Ord. 78-220; 1968 Code § 7-194)

1. Ordinance 78-220 passed as an emergency ordinance, as provided by City Charter; the nature of the emergency is that by virtue of C.R.S. 1973, 31-30-804(8)(a) no modification may be made of an existing pension plan adopted pursuant to Title 31, Article 30, C.R.S. 1973 after December 1, 1978, and in order for this Ordinance permitting the members of the Fire Department to receive back their contributions to the Pension Fund if they leave the Department, to become effective prior to December 1, 1978, it is necessary that this ordinance be passed as an emergency ordinance.

CHAPTER 3 CITY PERSONNEL

ARTICLE 2 CIVIL SERVICE EMPLOYEES

PART 7 ALTERNATE FIREMEN'S PENSION PLAN

SECTION:

- 3-2-701: Applicability of Provisions
- 3-2-702: Definitions
- 3-2-703: Retirement Pension
- 3-2-704: Return of Contributions; Vested Rights
- 3-2-705: Disability Benefits
- 3-2-706: Benefits to Dependents
- 3-2-707: Allocation of Contributions

3-2-701: **APPLICABILITY OF PROVISIONS:** The provisions of this Part 7 shall apply to all members hired by the Fire Department after April 7, 1978. The provisions of Part 6 of this Article shall continue to apply to all members hired by the Fire Department after April 7, 1978, except as superseded by this Part 7. (Ord. 78-217; 1968 Code § 7-194.6)

3-2-702: **DEFINITIONS:**¹ For the purposes of this Part 7:

FINAL AVERAGE SALARY: The average monthly base salary and longevity pay said member is in receipt of as a member of the Department for eighteen (18) months prior to the order of retirement or prior to the date the member leaves the Department for reasons other than death or retirement. If the member has less than eighteen (18) months of service final average salary shall be the average monthly base salary for the period of time said member was a member of the Department. Monthly salary shall not include proficiency pay, merit pay or any other extra pay however denominated for exemplary service. (Ord. 79-37; 1968 Code § 7-194.1)

COST OF LIVING ADJUSTMENT: A cost of living adjustment limited to the percentage of annual increase in the cost of living, determined to the nearest one-half (½) of one percent (1%) as of January 1 of each year as shown by the then current consumer price index prepared by the United States Department of Labor for the Denver/Colorado Springs area, but not to exceed three percent (3%) per year. No cost of living adjustment as provided in this Part 7 shall be payable until the member has reached the age of sixty five (65), or if the member elects to retire prior

to age fifty five (55), ten (10) years after the date of retirement. (Ord. 78-217; 1968 Code § 7-194.1)

3-2-703: **RETIREMENT PENSION:**

- A. Any member of the Fire Department who shall have served twenty five (25) years or more of active duty and shall have attained the age of fifty five (55) years shall be retired within thirty (30) days after making application for retirement, except during periods of national emergency, and such person shall be paid a monthly pension equal to one-half (½) the amount of his final average salary. For so long as said member of said Department is receiving a retirement pension he shall be entitled to a cost of living adjustment payable at the time as provided in Section 3-2-702.
- B. A member who continues to be employed after having served twenty five (25) years of active service shall be entitled to an additional benefit of one percent (1%) of his final average salary for every full year of employment after twenty five (25) years of service to a maximum of sixty percent (60%).
- C. Any member who has completed at least twenty (20) years of active service prior to attaining age fifty (50) may elect upon attaining the age of fifty (50) or any year thereafter to retire from active service but shall not receive the full retirement pension provided by subsection A of this Section. The retirement pension for a member making the election provided by this subsection shall be the retirement pension provided by subsection A of this Section reduced by one-half (½) of one percent (1%) per month of the retirement pension for each month or portion thereof that such member lacks to attain the age of fifty five (55) years at the time of such election. For so long as said member of said Department is receiving a retirement pension he shall be entitled to a cost of living adjustment payable at the time as provided in Section 3-2-702.
- D. Any member who has completed ten (10) years of service by age fifty five (55) but would not be

¹. For definitions of general application, see Section 1-1-203 of this Code.

- D) able to complete twenty five (25) years of service by age fifty five (55) may nevertheless retire at age fifty five (55) or later, in which event said member shall receive a pension equal to two percent (2%) for each year of credited service, but not to exceed one-half (½) the amount of his final average salary. There shall be added to any pension received under this subsection a cost of living adjustment, said cost of living adjustment payable at the time as provided in Section 3-2-702. (Ord. 78-217; Ord. 82-121; Ord. 83-98; 1968 Code § 7-194.2)

3-2-704: RETURN OF CONTRIBUTIONS; VESTED RIGHTS: Whenever any member shall terminate his employment with the Fire Department for reasons other than death or retirement his total contributions due to date of such termination shall be returned to him with interest thereon at the rate of five percent (5%) per annum; provided, however, that any member having ten (10) or more years credited service may leave his contribution and upon reaching the age of fifty five (55) years shall receive a pension equal to two percent (2%) per year for each year of credited service, but not to exceed one-half (½) the amount of his final average salary. There shall be added to any pension received under this Section a cost of living adjustment, said cost of living adjustment payable at the time as provided in Section 3-2-702. (Ord. 78-217; 1968 Code § 7-194.3)

3-2-705: DISABILITY BENEFITS:¹

A. Disability Incurred on Duty.

1. Any member of the Fire Department who while in the performance of his assigned duty becomes permanently disabled from any cause not intentionally self-inflicted nor due to habitual use of intoxicants or drugs resulting in permanent incapacity to perform his assigned duties shall be retired by the Board. Any member of the Fire Department who has completed five (5) years or more as a member of said Department but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract shall be presumed, unless such presumption is overcome by competent evidence, to have contracted said disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases and shall be retired by the Board.

2. In cases where a special position or assignment can or may be assigned to such

- A,2) member he may be assigned to such special position or assignment.

3. Said retired member shall be paid a monthly pension equal to one-half (½) the amount of his final average salary. For so long as said member of said Department is receiving a retirement pension he shall be entitled to a cost of living adjustment payable at the time as provided in Section 3-2-702.

4. All applicants for disability pension shall be examined by one or more physicians selected for the purpose by the Board and may be examined by one or more physicians selected by the applicant. All expenses of examination by a physician chosen by the Board shall be paid by the Board out of said Fund.

5. The Board shall establish such general rules and regulations as it deems proper for the purpose of re-examination of all persons who have been retired for disability or who may be so retired hereafter to determine from time to time the fitness of such persons to return to active duty in said Department. No person who has reached the age of fifty five (55) years either before or after his retirement shall be re-examined. No such person who has completed twenty five (25) years of active duty in said Department before the date of such retirement shall be re-examined. No person on the disability retired list shall be examined sooner than one year after date of retirement and not more frequently than once a year thereafter. In the event it is found by said Board that any member on the retirement list has recovered from the disability which caused his retirement, such person, if he is under fifty five (55) years of age and has served less than twenty five (25) years of active duty, shall be removed from the retired list and ordered to report to the Chief of the Fire Department within thirty (30) days for assignment to active duty. During said period of thirty (30) days such member may file a written protest in which he shall state any objection that he may have to his removal from the retired list. The decision of said Board shall be suspended pending a hearing on said protest, at which hearing such member shall have the right to appear and be represented by counsel. During the period that any member is ordered retired for disability by said Board, such member, if under the age of fifty five (55) years and having served less than twenty five (25) years of active duty, shall be carried on a special roll of the Fire Department and listed as inactive.

- B. Disability Incurred Off Duty. Any member of the Fire Department who becomes

1. This Section has been superseded by State Statute as to the classified employees who become disabled on or after January 1, 1980. See C.R.S. 1973 §§ 31-10-1001 et seq. (S.B. 79, enacted June 22, 1979)

- B) permanently disabled from any cause while not in the performance of his assigned duty resulting in permanent incapacity to perform his assigned duties in the Fire Department shall be paid so long as the disability shall last according to the following formula: two percent (2%) of his final average salary multiplied by the number of years of service already credited to a maximum of fifty percent (50%) of his final average salary. In addition, said member shall receive a cost of living adjustment, said cost of living adjustment payable at the time as provided in Section 3-2-702; provided however, that when a member is disabled off duty during employment with another employer and receives payments under Workmen's Compensation or any other compensatory plan provided by such employer in respect to such injury, such member's disability pension from the City shall abate to the extent of such other disability compensation which is furnished by such other employer. The provisions covering examinations and re-examinations as set forth in subsection A of this Section shall be applicable to all cases arising under this subsection B. No disability payments shall be payable where the disability is intentionally self-inflicted or due to the habitual use of intoxicants or drugs.
- C. The benefits provided in subsections A and B above will commence immediately upon the order of retirement and accrued sick leave shall be compensated as provided by Section 3-2-105. (Ord. 78-217; 1968 Code § 7-194.4)

3-2-706: BENEFITS TO DEPENDENTS:¹

- A. If any member of the Fire Department dies from a service-connected cause, the spouse of such member shall receive a monthly benefit equal to one-half ($\frac{1}{2}$) the amount of the member's final average salary. The spouse's pension provided herein shall be subject to a cost of living adjustment, said cost of living adjustment payable ten (10) years after the spouse's eligibility for the pension benefit. If such member has no spouse on the date of death or if the spouse subsequently remarries or dies, the member's children if under the age of eighteen (18) years or twenty three (23) years if unmarried and a full-time student in an
- A) accredited institution of higher education shall receive an equal share of the spouse's benefit. Whether or not the member dies from a service-connected cause shall be determined by the Board.
- B. If any member of the Fire Department dies from a nonservice-connected cause, the spouse of such member shall receive a monthly benefit equal to fifty percent (50%) of the monthly retirement benefit to which said deceased member would have been entitled had he retired the day preceding the date of his death, even though he might not have attained an age to become eligible for retirement. The member's retirement benefit shall be based on two percent (2%) of his final average salary multiplied by the number of years of service already credited to a maximum of fifty percent (50%) of his final average salary; provided, however, that the spouse's benefit shall not be less than twenty five percent (25%) of the member's final average salary. The spouse's benefit shall be effective from the later date of either the member's death or the spouse's first eligibility therefor. The spouse shall be eligible on or after said spouse's attainment of age sixty (60) years if said member had less than ten (10) years credited service; or age fifty five (55) years if said member had less than fifteen (15) but ten (10) years or more credited service; or age fifty (50) years if said member had fifteen (15) or more years of credited service. If said spouse is found by the Board to be mentally or physically incapacitated from gainful employment said benefits shall be paid notwithstanding the above age requirements.
- C. If such deceased member leaves a spouse who had in his or her care said deceased member's unmarried child under the age of eighteen (18) or under the age of twenty three (23) years if such child is unmarried and a full-time student in an accredited institution of higher education, the spouse shall receive a benefit of forty percent (40%) of the member's final average salary so long as there is one qualified child, or fifty percent (50%) of the member's final average salary so long as there are two (2) or more qualified children in the care of said spouse. In no case shall the benefit be less than two hundred fifty dollars (\$250.00) per month. If the spouse dies or remarries while having the care of such qualified child, such child shall receive a benefit of twenty five percent (25%)

1. This Section has been superseded as to those classified employees who die or become disabled on or after January 1, 1980. See C.R.S. 1973 §§ 31-10-1001 et seq. (S.B. 79, enacted June 22, 1979)

- C) of the member's final average salary. If there are two (2) such children, the total benefit shall not exceed forty percent (40%) of the member's final average salary, each such child to derive an equal share thereof. If there are three (3) or more children the total benefit shall not exceed fifty percent (50%) of the member's final average salary, each such child to derive an equal share thereof. In no event shall the benefit payable to such children be less than two hundred fifty dollars (\$250.00) per month if there are three (3) or more children, or less than one hundred dollars (\$100.00) per month to each child if there are less than three (3) children. Any such benefit payable to a child shall terminate upon his adoption, marriage, death or attainment of age eighteen (18) years unless said child is a full-time student in an accredited institution of higher education, in which case the benefit shall terminate upon graduation or upon the child's twenty third (23) birthday, whichever occurs first. If any child regardless of age is found by the Board to be so mentally or physically incapacitated that he cannot provide for himself, the benefit shall be paid for the life of such child or until any disability is removed as may be determined by the Board, or until such child is deceased, married or adopted. The spouse who has in his or her care such child shall receive the spouse's benefit provided for in this Section beyond the child's eighteenth (18) birthday in lieu of receiving the spouse's benefit under subsection B.
- D) If such deceased member leaves an unmarried child under age eighteen (18) or under age twenty three (23) if such child is a full-time student in an accredited institution of higher education and no benefits have been payable under subsections B and C on account of said member's death, such child shall receive a benefit of twenty five percent (25%) of the deceased member's final average salary. If there are two (2) such children each child shall receive a benefit of an equal share of forty percent (40%) of the deceased member's final average salary. If there are three (3) or more such children each child shall receive a benefit of an equal share of fifty percent (50%) of the deceased member's final average salary. In no event shall the benefit payable to such children be less than two hundred fifty dollars (\$250.00) per month if there are three (3) or more children, or less than one hundred dollars (\$100.00) per month to each child if there are less than three (3) children. Any such benefit payable to a child shall terminate upon his adoption, marriage, death or attainment of age eighteen (18) years, unless said child is a full-time student in an accredited institution of higher education in which case the benefit shall terminate upon graduation or the child's twenty third (23) birthday, whichever occurs first. If any child regardless of age is found by the Board to be so mentally or physically incapacitated that he cannot provide for himself after reaching age eighteen (18), the benefits shall be paid for the life of the child or until any disability is removed, as may be determined by the Board, or until such child is deceased, married or adopted.
- D) children, or less than one hundred dollars (\$100.00) per month to each child if there are less than three (3) children. Any such benefit payable to a child shall terminate upon his adoption, marriage, death or attainment of age eighteen (18) years, unless said child is a full-time student in an accredited institution of higher education in which case the benefit shall terminate upon graduation or the child's twenty third (23) birthday, whichever occurs first. If any child regardless of age is found by the Board to be so mentally or physically incapacitated that he cannot provide for himself after reaching age eighteen (18), the benefits shall be paid for the life of the child or until any disability is removed, as may be determined by the Board, or until such child is deceased, married or adopted.
- E. Upon the death of a retired participating member whether retired for disability or age, the spouse of such retired member shall be entitled to receive a benefit equal to seventy percent (70%) of the retirement benefit being paid to the retired member at the time of death. If such member has no spouse on the date of death or if the spouse subsequently remarries or dies, the retired member's children shall receive an equal share of the spouse's benefit as long as such child is under the age of eighteen (18) or twenty three (23) if unmarried and a full-time student in an accredited institution of higher education.
- F. For purposes of this Section, the term "spouse" shall include only the spouse who is married to the pensioner at the time of his retirement.
- G. Remarriage of a spouse shall terminate the spouse's right to receive any benefits under this Section. Each child's share or right to a share of any benefit under this Section shall terminate when the child is adopted, married or reaches the age of eighteen (18) or twenty three (23) if a full-time student in an accredited institution of higher education.
- H. If any participating member, whether active or retired for age or disability, dies and has no spouse or children on the date of death, or such spouse or children are not qualified under this Section to receive any benefits, no survivor's benefits shall be paid or payable from the Fund.

- H) Any accumulated contributions made by the member shall be refunded to the member's estate.
- I. No death of any participating member shall be considered service-connected if the death was intentionally self-induced or due to the habitual use of intoxicants or drugs. (Ord. 78-217; 1968 Code § 7-194.5)

3-2-707: ALLOCATION OF CONTRIBUTIONS:

All contributions allocated to this Alternate Pension Plan from whatever source shall be segregated from any other pension plan funds of the Fire Department. (Ord. 78-217; 1968 Code § 7-194.7)

CHAPTER 4 MUNICIPAL COURT¹

ARTICLE 1 ADMINISTRATION

SECTION:

- 4-1-101: Definitions
- 4-1-102: Municipal Court Established
- 4-1-103: Operation; Rules of Procedure
- 4-1-104: Court Sessions
- 4-1-105: Municipal Court Clerk
- 4-1-106: Court Personnel to Take Oath
- 4-1-107: Emergency Appointments

4-1-101: DEFINITIONS:² The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

CLERK OF THE COURT: That person or his designated representative employed by the City to manage the business of the Municipal Court.

MUNICIPAL COURT: The Municipal Court of the City.

MUNICIPAL JUDGES: Those judges appointed by the City Council to serve as judges of the Municipal Court.

PRESIDING JUDGE: The Municipal Judge appointed by the City Council to serve as the executive head of the Municipal Court. (Ord. 4718; 1968 Code § 1-19)

REFEREE: That person appointed by the Presiding Judge to serve as the Referee of the Municipal Court. (1980 Code)

4-1-102: MUNICIPAL COURT ESTABLISHED:

- A. The Municipal Court in and for the City is hereby created and established to hear all Municipal Charter and ordinance violations. Said Municipal Court shall be a qualified Municipal court of record. The Municipal Court may be divided into as many divisions by the Presiding Judge as is necessary to handle the business of the Court.

- B. A verbatim record of the proceedings of the Court and evidence of trials therein shall be kept by electronic devices or by a stenographer. (Ord. 4718; 1968 Code § 1-20)

4-1-103: OPERATION; RULES OF PROCEDURE:

- A. The Municipal Court shall be operated in accordance with C.R.S. 1973 §13-10-101 et seq., as amended, except where such provisions are superseded by this Code or by the City Charter.³ (Ord. 4718; 1968 Code § 1-21)
- B. The Municipal Court Rules of Procedure, promulgated by the Colorado Supreme Court, shall govern the procedure in all Municipal Charter and ordinance violation cases. (Ord. 4718; 1968 Code § 1-25)

4-1-104: COURT SESSIONS:

- A. Regular Sessions. There shall be regular sessions of the Municipal Court for the trial of cases, and a Municipal Judge shall hear and determine complaints for the violation of any ordinance or the City Charter where there is probable cause to believe that an offense has been committed.
- B. Special Sessions. A Municipal Judge may hold special sessions of the Municipal Court at any time if, in his discretion, a special session is deemed advisable.
- C. Sessions Open to the Public. All sessions of the Municipal Court shall be open to the public; provided, however, that where the type of offense charged and the nature of the case are such that it would be in the best interest of the witnesses or the defendants or both to exclude all persons not directly connected with the case, the Municipal Judge may, unless otherwise prohibited by law, order the Court to be cleared of all persons not so directly connected with the case. (Ord. 4718; 1968 Code § 1-27)

1. For creation of Municipal Court, see City Charter, Article VIII, § 49.

2. For definitions of general application, see Section 1-1-203 of this Code.

3. See City Charter, Article VIII, § 49.

4-1-105: **MUNICIPAL COURT CLERK:** There is hereby created the position of Municipal Court Clerk, who shall have the following powers and duties:

- A. Have control, management and supervision over all matters pertaining to the business of the Municipal Court, and authority to promulgate rules and regulations pertaining to the administration of the Municipal Court. (Ord. 79-138; 1968 Code § 1-55)
- B. Ensure the daily turn-in of receipts, and provide the City Council with monthly reports of the receipts and business of the Municipal Court.
- C. Attend all sessions of the Municipal Court and keep records of all proceedings therein.
- D. Administer oaths and affirmations in the Municipal Court. (Ord. 4718; 1968 Code § 1-55)

4-1-106: **COURT PERSONNEL TO TAKE OATH:** Before entering upon the duties of office, each employee of the Court shall take and subscribe an oath, before a Municipal Judge, that he will support the Constitution of the United States and the Constitution of the State of Colorado and the Charter and ordinances of the City and will faithfully perform the duties of his office. (Ord. 4718; 1968 Code § 1-57)

4-1-107: **EMERGENCY APPOINTMENTS:** During periods of emergency or civil disorders or both, where it appears that Court business cannot be handled expeditiously by personnel then employed by the City and that speedy arraignment and trial would not be available because of such temporary caseload, the Presiding Judge may appoint one or more persons to serve for the duration of such period in any of the positions enumerated above. Such persons shall take and subscribe before the Presiding Judge an oath as prescribed in this Article. Such personnel shall be paid per diem at a rate to be established by the City Manager. (Ord. 4718; 1968 Code § 1-58)

CHAPTER 4 MUNICIPAL COURT

ARTICLE 2 JUDGES

SECTION:

- 4-2-101: Appointment of Municipal Judges
- 4-2-102: Presiding Judge; Appointment
- 4-2-103: Presiding Judge; Powers and Duties
- 4-2-104: Additional Judges
- 4-2-105: Oath

4-2-101: **APPOINTMENT OF MUNICIPAL JUDGES:** Municipal judges shall:

- A. Be appointed by the City Council for an indefinite term to serve at the pleasure of the Council;
- B. Be an attorney-at-law, properly licensed to practice law in the State of Colorado; and
- C. Receive such annual compensation under contract, as fixed by the City Council and provided by resolution. (Ord. 4718; 1968 Code § 1-22)

4-2-102: **PRESIDING JUDGE; APPOINTMENT:** There is hereby created the position of Presiding Judge of the Municipal Court. He shall be appointed by the City Council for an indefinite term and shall receive such annual compensation as the Council may by resolution provide. (1980 Code)

4-2-103: **PRESIDING JUDGE; POWERS AND DUTIES:** The Presiding Judge shall have such powers and duties as may be necessary to effectively carry out the administration of the Municipal Court system, including but not limited to the following:

- A. Administer and superintend associate judges, which shall include the right to reassign cases and to assign judges to specific divisions and calendars of the Court.
- B. Convene a three (3) judge or en banc court upon motion of an associate judge or upon

B) his own motion. Decisions of such a court on matters of law shall be binding on all judges until reversed by a superior court.

C. Designate the fines which may be made payable in the Violations Bureau, both traffic and nontraffic offenses, subject to applicable State laws and rules of the Supreme Court of the State of Colorado.

D. Set minimum Court costs for matters processed through the Court.

E. Set fees for Court-appointed counsel as provided in Section 4-3-108 of this Chapter.

F. Set indigency standards as provided in Section 4-3-108B of this Chapter.

G. Appoint a Jury Commissioner and establish jury procedures as provided in Section 4-4-201 and Part 3, Article 4 of this Chapter.

H. Make emergency appointments as provided in Section 4-1-107 of this Chapter.

I. Promulgate and enforce such rules and regulations as may be necessary to effectively govern the Municipal Court System. (1980 Code)

4-2-104: **ADDITIONAL JUDGES:** During periods of emergencies or civil disorders or both, where it appears that the number of cases cannot be handled expeditiously by the number of Municipal Judges then employed by the City Council, and speedy arraignment and trial would not be available because of such temporary caseload, the Mayor may appoint one or more additional Municipal Judges to serve for the duration of such period. Each additional Municipal Judge must be an attorney licensed to practice in the State of Colorado, and each shall take and subscribe to the oath as set out in Section 4-2-105 of this Chapter.

Additional Municipal Judges shall be paid at a per diem rate to be set by the City Council. (Ord. 4718; 1968 Code § 1-24)

4-2-105: **OATH:** Before entering upon the duties of office, each Municipal Judge shall take and subscribe before the Mayor and file with the City Council, an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of Colorado and the Charter and ordinances of the City, and that he will faithfully perform the duties of his office. (Ord. 4718; 1968 Code § 1-23)

CHAPTER 4 MUNICIPAL COURT

ARTICLE 3 PROCEDURES

SECTION:

- 4-3-101: Fines and Costs
- 4-3-102: Appeals, Bond
- 4-3-103: Costs Assessed
- 4-3-104: Witness Fees
- 4-3-105: Suspend Sentence; Remission of Fines
- 4-3-106: Failure to Pay Fine; Stay of Execution
- 4-3-107: Confinement in Lieu of Bail
- 4-3-108: Court-Appointed Counsel; Indigents
- 4-3-109: Probation Procedures
- 4-3-110: Contempt of Court
- 4-3-111: Alternative Disposition; Public Service

4-3-101: FINES AND COSTS: All fines and costs collected or received by the Municipal Court shall be reported and paid daily, or at such other regular intervals as may be provided by the City Manager, to the Treasurer of the City and deposited in the General Fund of the City. (Ord. 4718; 1968 Code § 1-36)

4-3-102: APPEALS, BOND:

- A. Appeals from the Municipal Court shall be made in accordance with Rule 37 of the Colorado Rules of Criminal Procedure. An appeal bond shall be set by the Municipal Judge, but such bond shall not exceed six hundred dollars (\$600.00) plus six dollars (\$6.00) for each day of a jail sentence given.
- B. The defendant shall be entitled to the whole or a part of the transcript of the proceedings appealed from at a cost of two dollars (\$2.00) per page. A Municipal Judge may waive such costs if the defendant is indigent or indicates to the Judge's satisfaction that he cannot afford the costs. (Ord. 4718; 1968 Code § 1-54; 1980 Code)

4-3-103: COSTS ASSESSED:

- A. Costs, in an amount not to exceed fifty dollars (\$50.00), may be assessed by a Municipal Judge against any defendant who, after trial, is found guilty of a violation of this Code.

B. Costs over and above those assessed under subsection A hereof may be assessed by a Municipal Judge against any defendant against whom a warrant was issued. Such costs shall not exceed the expense incurred in connection with execution and service of such warrant.

C. Discretionary assessment of costs against a complaining party before Municipal Court. If any person complains to any peace officer, member of the Police Department, or any other person authorized to issue a summons and complaint alleging a violation of this Code, or concerning conduct allegedly in violation of this Code and obtains or causes the issuance of such summons and complaint against another, and

1. Fails to appear in the Municipal Court to give evidence in that behalf against the party accused upon being so ordered by the Court by subpoena or otherwise; or,

2. Proceedings under that summons and complaint are discontinued for want of testimony or otherwise at the request of the complainant; or,

3. If, upon trial of the person charged in the summons and complaint, that person is acquitted and the Court finds that there was no reasonable ground for the complaint or that the complaint was maliciously brought,

The Court may, at its discretion, order the complaining party to show cause, if any, why costs in an amount not to exceed fifty dollars (\$50.00) should not be assessed against him for the costs arising in that case. If such cause is not shown, the Court may enter its order assessing such costs against the complaining party, which order may then be enforced in like manner as any order of the Court concerning the assessment of fines or costs.

Nothing herein is to be deemed or considered as any limitation on the power of the Municipal Court to punish persons for contempts committed against it. (Ord. 4718; Ord. 83-14; 1968 Code § 1-33)

4-3-104: **WITNESS FEES:** There shall be no witness fees paid to any witness subpoenaed to appear in the Municipal Court. (Ord. 4718; 1968 Code § 1-35)

4-3-105: **SUSPEND SENTENCE; REMISSION OF FINES:** A Municipal Judge is hereby authorized to suspend the payment of any fine or cost, or any part thereof, assessed for a violation of this Code or the City Charter and may suspend all or any part of any jail sentence imposed for such a violation. He may impose reasonable conditions upon such suspension and revoke such suspension and reinstate the sentence for the violation of such condition. The Judge is further authorized and empowered to remit any fine previously paid. (Ord. 4718; 1968 Code § 1-34)

4-3-106: **FAILURE TO PAY FINE; STAY OF EXECUTION:**

- A. Any person against whom any fine shall be assessed under the ordinances of the City who shall refuse or neglect to pay the same upon demand, may be committed, in default thereof, to the lawful place for the detention of City prisoners. Satisfaction for the payment of such fine shall be at the rate of five dollars (\$5.00) per twenty four (24) hour day. No single term of imprisonment imposed in satisfaction of any single unpaid fine shall exceed ninety (90) days.
- B. Defendants who are found to be indigent and unable to pay such fine, may be given the opportunity to pay such fine at a later date or in installments under a stay of execution granted by the Municipal Judge. If such a defendant is unable to meet such terms of the stay of execution because he refuses or neglects to do so, he may be imprisoned for failure to pay. (Ord. 4718; Ord. 82-165; 1968 Code § 1-31)

4-3-107: **CONFINEMENT IN LIEU OF BAIL:** A person in custody who cannot be tried on account of the absence of witnesses, or for any other good and sufficient cause, and who cannot give bail for his appearance at the time to which his case may be continued, may be confined in the lawful place of detention for City prisoners. (Ord. 4718; 1968 Code § 1-32)

4-3-108: **COURT-APPOINTED COUNSEL; INDIGENTS:**

A. Court-Appointed Counsel.

1. The Municipal Judges may, upon their own motion or upon application by an indigent person, appoint an attorney to represent such indigent person in the Municipal Court. The attorney so appointed shall be awarded compensation and reimbursement for expenses necessarily incurred, to be fixed by the Presiding Judge and paid by the Municipal Court.

2. Alternatively, the City may contract with the public defender of the State of Colorado to defend indigent persons in the Municipal Court. The Municipal Judge may refer a person claiming to be indigent to the public defender, who shall make a determination of indigency and who shall defend such person, if found to be indigent, in the Municipal Court. (Ord. 4718; 1968 Code § 1-28)

- B. Indigency Standards. The Presiding Judge shall, from time to time, promulgate indigency standards and an application form for those desiring Court-appointed counsel. A probation officer shall inspect each completed application form prior to same being presented to the Municipal Court, and each applicant shall attest by affidavit to the truthfulness of the completed form before the probation officer. The Municipal Judge shall, upon hearing the application for Court-appointed counsel, determine if the applicant is entitled thereto. (Ord. 4718; 1968 Code § 1-29)
- C. False Indigency Application. It shall be a misdemeanor for any person to give false information on an application for Court-appointed counsel, and upon conviction of such a violation, such person shall be punished as provided in Section 1-2-101 of this Code.
- D. In any case where the Court determines that a defendant is able to repay all or part of the expense of Court-appointed counsel, the Court may assess either all or part of such expense against such defendant. Such action may be taken regardless of the resolution of the case before the Court. (Ord. 4718; Ord. 83-42; 1968 Code § 1-30)

4-3-109: PROBATION PROCEDURES:

- A. Whenever any person shall be adjudged guilty of any misdemeanor and before the imposition of a sentence, and where the Court has discretion as to the penalty, the Court may cause a probation officer to make an investigation of the background of such person, including any prior criminal record, any information about his characteristics and/or his financial condition, any circumstances affecting his behavior, and such other information as may be helpful in imposing sentence, or as may be required so that the Court may be fully apprised concerning such person. After completing said investigation, the probation officer shall make a written report to the Court.
- B. Upon conviction of a misdemeanor, or after pleading guilty to a misdemeanor, any person may make application to the Court to be released on probation. Whenever such application is made, the Court may defer sentence and cause a probation officer to make such investigation of the applicant as may be helpful in determining the advisability of granting probation.
 - 1. Within such time as the Court shall prescribe, the probation officer shall make a written report of said investigation to the Court together with his recommendation as to whether or not probation should be granted.
 - 2. Upon petition of the probation officer or upon its own motion, the Court may order any defendant who is subject to presentence investigation or who has made application for probation to submit to a mental or physical examination.
 - 3. So far as possible and upon such reasonable terms as the Court may impose as a condition of probation, the Court may order a defendant who has been granted probation to make restitution or reparation to the aggrieved party for actual damages or loss caused by the offense for which the conviction was had. (Ord. 4718; 1968 Code § 1-56)
- C. 1. Whenever the probation officer has reason to believe that the conditions of probation have

C, 1) been violated, he shall have the power to cause an order to be served on the probationer advising him of the nature of the alleged violation and requiring him to show cause to the Municipal Court on a date certain as to why his probation should not be revoked. Said order shall be returnable to the Municipal Court for hearing, if possible, before the Municipal Judge who granted the probation. Prior to the date scheduled for said hearing, the probation officer shall file with the Municipal Court a written report as to the nature of the alleged violation and his recommendation as to the disposition of the matter.

2. On the date provided, the matter shall be heard before the Municipal Court, which may receive evidence on the issue as provided by law. If it is determined that a violation of the conditions of probation has occurred, the Municipal Court may order the probation revoked and impose sentence, continue probation under such additional conditions as it may deem appropriate, or continue probation without change. If it is determined that no violation of the conditions of probation has occurred, the Court shall continue the probation as originally granted and order the probationer's release. (Ord. 4718; 1968 Code § 1-56; 1980 Code)

4-3-110: CONTEMPT OF COURT:

- A. Failure to Obey Summons or Subpoena. Failure by any person, without adequate excuse, to obey a summons, subpoena, or other court order served upon him may be deemed a contempt of the Municipal Court from which the summons, subpoena or other court order was issued; and, for failure to obey such summons, subpoena or other court order, such person may be punished as provided in Section 1-2-101 of this Code.
- B. Personal Conduct. Failure by any person to conduct himself in a manner consistent with the decorum and respect inherent in the concept of judicial proceedings in the Municipal Court shall be deemed a contempt of Court, and the Court may punish such person as provided in Section 1-2-101 of this Code. (Ord. 4718; 1968 Code § 1-26)

4-3-111: ALTERNATIVE DISPOSITION; PUBLIC SERVICE:

- A. Upon conviction after trial, the entry of a plea of guilty, or the granting of a deferred prosecution or sentence for any violation of this Code, the Municipal Court may, on its own motion, the motion of the defendant, or the motion of the City Attorney, require that the defendant perform public service, as set forth herein, as a condition of a suspended sentence granted in accordance with Section 4-3-105 of this Code, probation granted in accordance with Section 4-3-109 of this Code, or the granting of the deferred prosecution or sentence. The Court shall announce the specific number of hours of such service to be performed by the defendant and such service shall then be performed within the period during which sentence is suspended or deferred, prosecution is deferred, or the defendant is in a probationary status.
- B. The service to be performed pursuant to this Section shall be performed within and for the benefit of the Department of Parks and Recreation, or such other Department or agency of the City as the Presiding Judge shall from time to time designate. The exact nature and manner of such performance shall be the subject of agreement among the Probation Office of the Municipal Court, the Department head having jurisdiction over the Department or agency for which the service is to be performed, and the defendant who is to perform such service, subject only to such restrictions as may be contained herein or which may be promulgated from time to time by the Presiding Judge of the Municipal Court.
- C. Notwithstanding anything above, such service shall not require the performance of any task in which the defendant would be required to personally operate any power tool other than those which shall have been approved for use by participants in this program by the Director of the Office of Safety and Insurance, nor shall the defendant be required or allowed to personally operate any City-owned motor vehicle. Further, such service shall not be performed for the benefit of any Department or agency unless and until the Director of the Office of Safety and Insurance shall have certified to the probation officer, prior to any such service being performed, that a "Contract Insurance Policy", or other similar insurance coverage, in such amounts as may then be in force generally regarding personnel who work for the City under a personal service contract, has been obtained and is in force for the benefit of the Department or agency for which the service is to be performed.
- D.
 1. It shall be the duty of the Director of the Department of Parks and Recreation, or the director of any other department or agency for which such service is to be performed, or his designee, to monitor the performance of such service and to advise the Probation Office of the Municipal Court of the manner in which such service is performed.
 2. Should the required service be performed satisfactorily, the probation officer shall so advise the Municipal Court, which shall, provided that all other conditions imposed upon the defendant have been complied with, order the defendant released from the jurisdiction of the Court.
 3. Should it reasonably appear to the probation officer that the required service has not been performed at the times designated, or that such service was performed in an unsatisfactory manner, the probation officer shall proceed against the defendant in the manner provided in Section 4-3-109C of this Code regarding revocation of probation. The Municipal Court may thereafter, upon conducting the hearing provided in Section 4-3-109C2 of this Code in cases of an alleged violation of probation, and provided that the Municipal Court determines that the defendant has, without good cause, either failed to perform such service as directed or failed to perform such service in a satisfactory manner, revoke the order permitting the performance of public service and either impose sentence or direct that the prosecution of the defendant otherwise proceed, continue said order under such additional or different conditions as it shall deem appropriate, or continue said order without change. If it is determined that the defendant has complied with the order of the Court regarding the performance of public service, the Court shall, provided that all other conditions imposed upon the defendant have been complied with, direct that the defendant be released from the jurisdiction of the Court. (Ord. 81-47)

*CHAPTER 4 MUNICIPAL COURT***ARTICLE 4 JURY PROVISIONS***PART 1 TRIAL BY JURY*

SECTION:

4-4-101: Right to Trial by Jury

4-4-102: Right to Trial by Jury; Waiver; Fee

4-4-103: Right to Trial by Jury; Advisement of

4-4-101: **RIGHT TO TRIAL BY JURY:** In any action before the Municipal Court in which the defendant thereto is entitled to a jury trial by the Constitution or the general laws of the State, such defendant shall have a jury upon request. The jury shall consist of three (3) jurors unless a greater number, not to exceed six (6), is requested by the defendant. (Ord. 4718; 1968 Code § 1-37)

4-4-102: **RIGHT TO TRIAL BY JURY; WAIVER; FEE:** A defendant waives his right to a jury trial under this Part 1 unless, within ten (10) days after arraignment or entry of a plea, he files with the Court a written jury demand and he simultaneously tenders to the Court a jury fee of twenty five dollars (\$25.00), unless said fee is waived by the Municipal Judge because of the indigence of the defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant, having paid the jury fee, files with the Court a written waiver of the jury trial at least ten (10) days before the scheduled trial date, the jury fee shall be refunded. (Ord. 4718; Ord. 83-109; 1968 Code § 1-37)

4-4-103: **RIGHT TO TRIAL BY JURY; ADVISEMENT OF:** At the time of arraignment for any misdemeanor, the Municipal Judge shall advise the defendant of the defendant's rights and responsibilities as to trial by jury. (Ord. 4718; 1968 Code § 1-37)

CHAPTER 4 MUNICIPAL COURT

ARTICLE 4 JURY PROVISIONS

PART 2 JURY COMMISSIONER

SECTION:

- 4-4-201: Appointment, Term, Expenses
- 4-4-202: Removal From Office
- 4-4-203: Office, Records
- 4-4-204: Assistance by City Clerk

Jury Commissioner access to all books, records and papers in their respective offices and shall render all assistance within their power to enable him to procure the names of all persons in the City qualified to serve as jurors. (Ord. 4718; 1968 Code § 1-39)

4-4-201: **APPOINTMENT, TERM, EXPENSES:**

- A. The Presiding Judge shall appoint a competent and discreet person to be a Jury Commissioner, who shall be an officer of the Municipal Court. Said appointment shall be in writing, signed by the Presiding Judge and thereafter filed in the office of the City Clerk.
- B. The term of office of said Commissioner shall be for a period of one year.
- C. The City Council shall provide the clerical help, office help, office expense and supplies necessary to carry out the functions of the office of Jury Commissioner. (Ord. 4718; 1968 Code § 1-38; 1980 Code)

4-4-202: **REMOVAL FROM OFFICE:** Any Jury Commissioner may be removed by the Presiding Judge summarily and without notice for any reason deemed sufficient by the Presiding Judge. (Ord. 4718; 1968 Code § 1-51)

4-4-203: **OFFICE, RECORDS:** The office of the Clerk of the Court shall be the office of the Jury Commissioner, and the book containing the jury list shall be kept in the office of the Jury Commissioner and shall be open to public inspection. (Ord. 4718; 1968 Code § 1-42)

4-4-204: **ASSISTANCE BY CITY CLERK:** The City Clerk and his staff shall give the

CHAPTER 4 MUNICIPAL COURT

ARTICLE 4 JURY PROVISIONS

PART 3 SELECTION OF JURY

SECTION:

- 4-4-301: Qualifications and Exemptions
- 4-4-302: Preparation of Petit Jury List
- 4-4-303: Ballots; Drawing
- 4-4-304: Summoning Jurors
- 4-4-305: Service of Venire Facias
- 4-4-306: Open Venire
- 4-4-307: Term of Service
- 4-4-308: Refusal, Neglect to Obey
- 4-4-309: Jurors' Fees
- 4-4-310: Penalty for Tampering With Jury List
- 4-4-311: Violation by Officials
- 4-4-312: Panel Not Quashed for Irregularity

4-4-301: QUALIFICATIONS AND EXEMPTIONS: Qualifications and exemptions of jurors shall be the same as provided in C.R.S. 1973 § 13-71-104 et seq., as amended (Uniform Jury Selection and Service Act). (Ord. 4718; 1968 Code § 1-40)

4-4-302: PREPARATION OF PETIT JURY LIST: At such times as may be directed by the Presiding Judge, the Jury Commissioner shall prepare a list of persons in the City who are qualified to serve as petit jurors and who are not exempt from jury service. Such list shall include not less than one such person for every one hundred (100) inhabitants of the City, and not more than one such person for every seventy five (75) inhabitants of the City according to the last Federal census. The names on the jury list shall be entered alphabetically in a suitable book, together with the place of residence of each person named on said list. (Ord. 4718; 1968 Code § 1-41)

4-4-303: BALLOTS; DRAWING:

A. Ballots, How Made. When the jury list has been made up, the Jury Commissioner shall cause the name and residence of each person thereon

A) to be written or printed upon a separate slip of paper. These slips shall be uniform and shall be so folded as not to permit the writing or printing thereon to be seen.

B. Deposit of Names. The Jury Commissioner shall deposit these slips in a box prepared therefor. Said box shall be cylindrical in form and of adequate size, suspended in a suitable frame, and so devised as to thoroughly mix the slips upon the turning of a crank. Inside the box there shall be affixed to the spokes surrounding the axle stationary rods extending out nearly to the rim. The box shall be provided with an opening only large enough to admit a person's hand. The Jury Commissioner shall then lock, seal and hold said box in accordance with the provisions of this Code.

C. Drawing of Names. From said list, or from the names remaining in the box abovementioned, all petit jurors for service in the Municipal Court of the City shall thereafter be selected, as follows:

1. The Presiding Judge shall signify to the Clerk of the Court the number of jurors required to be summoned, and the Clerk shall notify the Jury Commissioner of such number of jurors.

2. The Jury Commissioner shall open the box, draw the required number of names of prospective jurors, and summon such persons for jury duty. Before drawing the names, the Jury Commissioner shall turn the crank a sufficient number of times to thoroughly mix the slips.

3. The Jury Commissioner shall then, without seeing the names on any slip, draw out of the box one slip, and continue to draw one slip at a time, in a like manner, until the required number has been drawn.

4. Upon completion of the drawing, the box shall be locked and sealed by the Jury

C,4) Commissioner and shall not be opened again until the next drawing.

5. All drawings of jurors shall take place no more than ten (10) days before the time the jurors are summoned to attend for jury duty.

D. At the close of each year, the Clerk of the Court shall certify to the Jury Commissioner the names of all persons impaneled during the year, and the names of all persons excused from jury service during the year with a statement of the causes for which they were excused. (Ord. 4718; 1968 Code § 1-43)

4-4-304: SUMMONING JURORS: Jurors selected according to the above provisions shall be summoned to attend upon the Court by a writ of venire facias, directed to the Jury Commissioner of the City, which writs may be made returnable upon any day of the year as the Court shall direct. (Ord. 4718; 1968 Code § 1-44)

4-4-305: SERVICE OF VENIRE FACIAS: A venire facias shall be served by the Jury Commissioner directing the same by regular mail or, at the discretion of the Presiding Judge of the Municipal Court, by registered mail, addressed to the usual place of abode of the juror. Where registered mail is utilized, a return receipt of the post office, showing personal delivery to the juror, shall be prima facie evidence of such service. The venire facias shall be served at least five (5) days before the day on which the jurors are required to appear; provided that a Municipal Judge may, in his discretion, order the Jury Commissioner to certify a list to the Chief of Police for personal service to be made by a police officer of the City. (Ord. 4718; Ord. 80-12; 1968 Code § 1-45)

4-4-306: OPEN VENIRE: Nothing in this Chapter shall be held to deprive the Court of the power to cause a jury to be summoned by open venire, as provided by law. (Ord. 4718; 1968 Code § 1-46)

4-4-307: TERM OF SERVICE: The term of jury service shall be as indicated on the venire facias. A person who has actually been in attendance as a juror in the Municipal Court, as ordered under the venire facias, shall be discharged by the Court. No juror shall be discharged until the close of a trial in

which he may be serving, and if the selection of a jury in any case has begun, the Court shall have the power to retain the panel until such jury is selected and sworn. A person discharged as prescribed in this Section shall be disqualified from jury service in the Municipal Court for a period of one year thereafter. (Ord. 4718; 1968 Code § 1-47)

4-4-308: REFUSAL, NEGLECT TO OBEY: Any person who shall refuse or neglect to obey any lawful mandate, order or direction of the Jury Commissioner, or who shall hinder, delay or obstruct the service of any process issued by the Jury Commissioner, or who shall refuse or neglect to appear, or who shall refuse to answer any question concerning his qualifications or the qualifications of any other person as a juror, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Section 1-2-101 of this City Code. (Ord. 4718; 1968 Code § 1-48)

4-4-309: JURORS' FEES: Each juror shall receive a fee of five dollars (\$5.00) per day for attending before the Municipal Court of the City. (Ord. 4718; 1968 Code § 1-53)

4-4-310: PENALTY FOR TAMPERING WITH JURY LIST: Any person who shall do any act for the purpose of procuring his own name or the name of any other person to be placed upon the jury list, or to be omitted therefrom, except as provided in this Code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-2-101 of this Code. (Ord. 4718; 1968 Code § 1-49)

4-4-311: VIOLATION BY OFFICIALS: If the Jury Commissioner or the Clerk of the Court or any other person employed by the City shall, upon the request or solicitation of any person or otherwise, place on or take from said jury list, or put into or take from said box prepared therefor any name, or in making any drawing of names from said box in compliance with this Code or the order of the Court shall do any act for the purpose of drawing therefrom any particular name or the names of any person of any particular class, or shall otherwise violate this Chapter in any manner whatsoever, he shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Section 1-2-101 of this Code. (Ord. 4718; 1968 Code § 1-50)

4-4-312: PANEL NOT QUASHED FOR IRREGULARITY: No array or panel of any jury shall be quashed, nor shall any verdict be stayed or averted by reason of an informality or irregularity in the summoning or selection of the jury which, in the opinion of the Court, is unimportant and insufficient to vitiate the return of the jury. (Ord. 4718; 1968 Code § 1-52)

CHAPTER 4 MUNICIPAL COURT

ARTICLE 5 MUNICIPAL COURT REFEREE

SECTION:

4-5-101: Office Created
 4-5-102: Election to Appear Before Judge
 4-5-103: Procedures
 4-5-104: Appeal
 4-5-105: Guidelines

4-5-101: OFFICE CREATED: The Presiding Judge of the Municipal Court is authorized and empowered to appoint one or more referees to hear certain municipal ordinance violations relating to parking or any other alleged violations of municipal ordinances as the Presiding Judge may from time to time designate as being hearable in the first instance by the referee. Such alleged violations may include any offense which may now or in the future be included in the schedule of payable fines established by the Presiding Judge pursuant to law; except that no such offense, conviction of which might result in the assessment of points by the Colorado Department of Revenue against the violator's driving license or privilege, may be so designated by the Presiding Judge. (Ord. 77-171; Ord. 80-11; 1968 Code § 1-59)

4-5-102: ELECTION TO APPEAR BEFORE JUDGE: Prior to conducting a hearing the referee shall inform the parties that they have the right to a hearing before a Municipal Judge in the first instance. If such request is made, the referee shall terminate the hearing and refer the matter to the Municipal Court for hearing before a Municipal Judge. (Ord. 79-116; Ord. 80-11; 1968 Code § 1-61)

4-5-103: PROCEDURES:

A. Hearings held by the referee shall be informal, but shall in all other respects be conducted in the manner provided for the hearing of cases by the Court. The referee may consider statements and evidence presented by the parties at the time of the hearing. The referee is empowered

A) to administer oaths, take testimony and obtain the issuance of subpoenas through the office of the Clerk of the Court to compel the presence of prospective witnesses at any hearing. The defendant shall also have the right to the issuance of a subpoena by making application to the office of the Clerk of the Court.

B. At the completion of any hearing held under the provisions of this Article, the referee shall enter an order:

1. Excusing a parking violation or dismissing any other alleged violation, in accordance with the guidelines established in Section 4-5-105 of this Article; or

2. Referring the case to the Municipal Court for hearing before a Municipal Judge, where the referee determines, in the exercise of his discretion, that the facts of the particular case or the issues raised therein require such hearing. Statements made by the defendant during the course of the hearing before the referee shall not be introduced against the defendant at any subsequent proceeding before the Municipal Court, nor may the referee hearing the case be called as a witness against said defendant; or

3. Making a finding of guilty, based upon either a plea of guilty entered before him or the evidence presented at the hearing, and assessing a penalty against the defendant, which penalty shall not exceed that fine established in the schedule of payable fines published by the Presiding Judge and in effect at the time of the violation. He may also, in his discretion, assess costs not to exceed an amount set by prior order of the Presiding Judge applicable to all matters heard before the referee, subject to the limitation contained in Section 4-3-103A of this Code. Except as provided in Section 22-1-103B of this Code relating to certain parking offenses, this restriction shall not apply to offenses which are

B,3) not resolved at a hearing before a referee but which, at the motion of either the alleged violator or the referee, are removed to the Municipal Court for trial before a Municipal Court Judge. As to such offenses, the maximum punishment allowable shall be as provided in Section 1-2-101 of this Code.

C. A written record of the proceedings shall be maintained by the referee. Said record shall contain the name of the alleged violator, the date of the appearance before the referee, the date, place and type of violation and the recommendation or order of the referee. (Ord. 77-171; Ord. 80-11; Ord. 84-127; 1968 Code § 1-62)

4-5-104: **APPEAL:** Any defendant who is found guilty by the referee and against whom a penalty has been imposed may appeal such decision to the Municipal Court by filing a request for such action in writing with the Clerk of the Court within ten (10) days of the decision of the referee. Upon the filing of such a request, the decision of the referee shall be deemed vacated, the defendant deemed to have entered a plea of not guilty and the case thereafter shall be set for trial de novo before the Municipal Court in the same manner as such cases not heard in the first instance by the referee. If such a request is not made within the allowable ten (10) day period, the order of the referee shall be final. In no instance shall the referee testify on appeal regarding any action previously before him. (Ord. 84-128)

4-5-105: **GUIDELINES:**

A. The referee shall excuse parking citations issued to the following vehicles on recommendation of the City Manager or Chief of Police:

1. Government vehicles when used on official business.

2. Law enforcement vehicles.

3. Privately-owned vehicles:

a. If on official City business, on approval of the immediate supervisor of the cited employee;

b. Press, if parked within two (2) blocks of City or County buildings and covering City government-related activities, on approval of the Public Affairs Administrator.

A,3) c. Jurors, actual Court attendance on first jury day for all local courts, on approval of the Jury Commissioner or Judge of the respective court;

d. Defendants and witnesses attending Municipal Court on approval of the Clerk of the Court or a Municipal Judge.

B. The referee is authorized in his discretion to excuse or reduce fines for parking citations if he finds that the named defendant:

1. Parked the vehicle described in the citation at a broken or defective meter;

2. Was issued a defective or illegible citation; or

3. Has a clearly meritorious defense to the citation. (Ord. 77-171)

C. The referee is authorized in his discretion to dismiss violations involving other than parking citations if:

1. He finds that the named defendant has a clearly meritorious defense to the allegation contained in the summons and complaint; or

2. Such action is requested by the person who issued, or caused to have issued, the summons and complaint against the defendant, and such action appears to the referee to be in the best interests of justice; or

3. Witnesses scheduled to appear at a hearing for the purpose of testifying against the defendant fail to so appear without good cause and without prior notice to the referee.

D. The referee may assess a penalty less than the payable fine prescribed in the schedule of fines published by the Presiding Judge in any case where, in the sound exercise of the referee's discretion, based upon evidence obtained during the course of the hearing, such action would be in the best interests of justice. The referee shall also have those powers relating to suspension of any penalty imposed as are set forth in Section 4-3-105 of this Code relating to Municipal Judges. (Ord. 80-11; Ord. 84-127; 1968 Code § 1-64)

CHAPTER 4 MUNICIPAL COURT

ARTICLE 6 CITY MARSHAL'S OFFICE

SECTION:

- 4-6-101: Office Established
 4-6-102: Marshals; Appointment and Authority
 4-6-103: Functions and Duties

4-6-101: OFFICE ESTABLISHED: There is hereby established as a division of the Municipal Court the Marshal's office, which shall consist of the Chief Marshal and such number of assistant and deputy marshals as the City Manager may deem necessary for the efficient operation of the Division. Such office and all employees therein are hereby assigned to the office of the City Clerk. (1980 Code)

4-6-102: MARSHALS; APPOINTMENT AND AUTHORITY:

- A. The Chief Marshal, assistant and deputy marshals, and all other employees of the office, shall be appointed by the City Manager or his designated representative¹ in accordance with the provisions of the City Charter.²
- B. The Chief Marshal as well as each assistant and deputy marshal shall be certified by the State of Colorado as peace officers or shall be appointed as special policemen by the City Manager.³ Such certification or appointment shall be a prerequisite to appointment to any such position within the office.
- C. All marshals of the office shall exercise such law enforcement authority as provided to peace officers or special policemen by the laws of the State of Colorado, and shall have the authority to enforce such ordinances of the City as may be designated by the City Manager. The jurisdiction of the marshals shall extend to all areas within the City limits, upon all property owned, leased or rented by the City, in all places involving fresh pursuit, and to all places as provided by law. (1980 Code)

4-6-103: FUNCTIONS AND DUTIES: The office shall be responsible for providing law enforcement services for the Municipal Court. In exercising such responsibility, the office shall:

- A. Be responsible for the service and execution of warrants, subpoenas, summons, show cause orders and all other legal process issued by the Municipal Court;
- B. Provide effective security services for the Municipal Court;
- C. Conduct investigative work relative to locating individuals named in legal process issued by the Municipal Court;
- D. Transport and detain City prisoners en route to and from Municipal Court and the lawful place of detention for such prisoners;
- E. Enforce all parking ordinances of the City;
- F. Cooperate with and, upon request, assist the Police Department of the City and other law enforcement agencies both within and without the City;
- G. Perform such other law enforcement services for the Municipal Court as the City Manager may direct. (1980 Code)

1. The City Clerk has been designated the "appointing authority" with respect to subordinates in his office. See the City Manager's memorandum of May 2, 1979.

2. City Charter, Article IV, § 24(b).

3. See also Section 2-6-203 of this Code.

CHAPTER 5
ELECTIONS

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Part 2	Election Precincts
Part 3	Judges and Officers of Election
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CHAPTER 5 ELECTIONS

ARTICLE 1 GENERAL MUNICIPAL ELECTIONS

PART 1 CONDUCT OF ELECTIONS

SECTION:

- 5-1-101: State Law Applicable
- 5-1-102: Registration Required
- 5-1-103: Election Notices
- 5-1-104: Absentee Votes
- 5-1-105: Write-In Candidates
- 5-1-106: Judges to Obtain, Open Election Supplies
- 5-1-107: Election Offenses; Penalty

5-1-101: **STATE LAW APPLICABLE:** Except as is provided in the City Charter and ordinances of the City, the provisions of the Colorado Municipal Election Code of 1965¹ as the same may be now or hereinafter amended, shall govern all Municipal elections.² (Ord. 957; Ord. 4493; 1968 Code § 4-1)

5-1-102: **REGISTRATION REQUIRED:** No person shall be permitted to vote at any municipal election without first having been registered in the time and manner required by the Colorado Municipal Election Code.³ Registration shall be with the County Clerk of El Paso County and such registration shall constitute registration for municipal elections. (Ord. 4493; 1968 Code § 4-9)

5-1-103: **ELECTION NOTICES:** The City Clerk shall, at least ten (10) days before an election, certify a list of the candidates for Mayor and City Council and the questions to be voted on, and the City Council shall cause such certified list to be published three (3) successive days before the election. This Section shall supersede all provisions of the Colorado Municipal Election Code relating to publication of notice of election.⁴ (Ord. 4493; Ord. 83-153; 1968 Code § 4-12)

5-1-104: **ABSENTEE VOTES:** Except as otherwise provided,⁵ absent voters shall cast their

votes in the time and manner provided by the Colorado Municipal Election Code.⁶ (Ord. 4493; Ord. 78-174; 1968 Code § 4-8)

5-1-105: **WRITE-IN CANDIDATES:** No write-in vote for any candidate in any election shall be counted unless an affidavit of intent has been filed indicating that the person desires the office and is qualified to assume the duties of that office if elected, and that such write-in candidate has filed his affidavit disclosing private interests and campaign financing and expenditures, as required by Article 2 of this Chapter. Such affidavit of intent shall be filed prior to six (6) days before the day of the special or general election at which candidates are to be elected. (Ord. 75-26; 1968 Code § 4-45; 1980 Code)

5-1-106: **JUDGES TO OBTAIN, OPEN ELECTION SUPPLIES:** It shall be the duty of the judges of election from each precinct to call, in person, at the office of the City Clerk on the day preceding any election, for the purpose of receiving the registration lists and all other election supplies for their respective precincts, which shall be delivered to them by the City Clerk in a sealed envelope, and which shall only be opened the morning of election at the polling places and in the presence of all judges of election of said precinct. (Ord. 1321; Ord. 4493; 1968 Code § 4-10)

5-1-107: **ELECTION OFFENSES; PENALTY:**

- A. Any person may file with the City Attorney an affidavit stating the name of any person who has violated any of the provisions of this Chapter or of the Colorado Municipal Election Code and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the City Attorney shall forthwith investigate, and if

1. C.R.S. 1973 § 31-10-101 et seq., as amended.

2. See City Charter, Article XIII.

3. C.R.S. 1973 § 31-10-203. See also C.R.S. 1973 §§ 1-2-201 et seq., as amended.

4. C.R.S. 1973 § 31-10-501, as amended.

5. For special absentee voting provisions applicable to election judges, see Section 5-1-303 of this Code.

6. C.R.S. 1973 § 31-10-1001 et seq., as amended.

- A) reasonable grounds appear therefor, he shall prosecute the same in the Municipal Court in the same manner as other ordinance violations.
- B. The District Attorney and the Attorney General of the State of Colorado shall have equal power with the City Attorney to file information or complaints against any person for violating a provision of the Colorado Municipal Election Code.¹
- C. Any person who shall violate any provision of this Chapter or of the Colorado Municipal Election Code and who is prosecuted and convicted in the Municipal Court of the City shall be punished as provided in Section 1-2-101 of this Code. (Ord. 4493; 1968 Code § 4-11)

1. C.R.S. 1973 §§ 31-10-1501 et seq., as amended.

*CHAPTER 5 ELECTIONS***ARTICLE 1 GENERAL MUNICIPAL ELECTIONS***PART 2 ELECTION PRECINCTS***SECTION:**

- 5-1-201: Voting and Election Precincts Established
- 5-1-202: Precinct Population Ratio
- 5-1-203: Polling Places; Fees

5-1-201: **VOTING AND ELECTION PRECINCTS ESTABLISHED:** The City Council shall divide the municipality into as many election precincts for municipal elections as it may deem expedient for the convenience of the electors, and shall designate the location and address for each precinct at which elections are to be held. The municipal election precincts shall, as closely as possible, conform to and be the same as the companion El Paso County general election precincts; provided, however, that in those cases where the County precincts extend beyond the corporate limits of the City, the applicable City precincts shall include only those portions of the County precinct or precincts which are included within the corporate limits of the City; and provided further, the City Council may combine such election precincts wherever practicable. (Ord. 4493; 1968 Code § 4-2)

5-1-202: **PRECINCT POPULATION RATIO:** The City Council hereby determines and declares that there shall be at least one precinct for each one thousand five hundred (1,500) registered electors, and that the maximum number of registered electors in each precinct shall not exceed one thousand five hundred (1,500). (Ord. 4493; 1968 Code § 4-3)

5-1-203: **POLLING PLACES; FEES:** The City Clerk, at least ten (10) days before each municipal election, shall provide a polling place and polling booths for each precinct. The compensation to be paid for said polling place shall be fifteen dollars (\$15.00) for each election, provided that other compensation may be agreed upon. (Ord. 4493; Ord. 4616; 1968 Code § 4-4)

CHAPTER 5 ELECTIONS

ARTICLE 1 GENERAL MUNICIPAL ELECTIONS

PART 3 JUDGES AND OFFICERS OF ELECTION

SECTION:

- 5-1-301: Appointment, Qualifications of Judges
 5-1-302: Compensation of Judges
 5-1-303: Absentee Voting by Judges; Special Provisions
 5-1-304: Watchers

5-1-301: APPOINTMENT, QUALIFICATIONS OF JUDGES: The City Clerk, at least fifteen (15) days before each election, shall appoint the judges of election and their alternates. Such appointment shall be made in writing and shall be reported to the next meeting of the City Council. The City Council may remove any judge or alternate so appointed and direct the City Clerk to substitute another therefor. The judges of election and their alternates need not be registered electors of the precinct in which they are appointed to serve. (Ord. 4493; Ord. 74-106; 1968 Code § 4-5)

5-1-302: COMPENSATION OF JUDGES: Judges at each municipal election shall receive not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00) in full compensation for their services as judges of such election; provided, however, that for picking up and delivering election supplies judges shall receive five dollars (\$5.00) each and returning the election supplies, the two (2) judges so selected by the judges of election of each precinct shall receive two dollars (\$2.00) each for the performance of such service. (Ord. 4493; Ord. 74-106; Ord. 81-73; Ord. 85-121; 1968 Code § 4-6)

5-1-303: ABSENTEE VOTING BY JUDGES; SPECIAL PROVISIONS:

- A. In the event any judge of election or alternate serves in a precinct other than one in which he is a registered elector, such judge of election or alternate may vote by absentee ballot on the day of election at the polling place in which he is serving.
- B. Any judge or alternate desiring to vote by absentee ballot pursuant to subsection A of this Section shall apply to the office of the City Clerk for an absent voter's ballot no later than the hour of nine o'clock (9:00) A.M. on the day of election. Such application may be oral, and shall state the applicant's residence address and that he will be serving in a precinct other than one in which he is a registered elector.
- C. Upon receipt of an application for an absent voter's ballot within the proper time pursuant to subsection B of this Section, the clerk receiving it shall examine the records of the El Paso County Clerk and Recorder to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested. If such applicant is found to be so registered and lawfully entitled to vote, the City Clerk or his designated representative shall deliver to the applicant personally at the polling place at which he is serving an official absent voter's ballot, an identification return envelope with the affidavit¹ thereon properly filled in as to precinct and residence address as shown by the records of the El Paso County Clerk and Recorder, and an instruction card.
- D. Before any such absent voter's ballot is delivered the clerk shall record such elector's name, the precinct number and the number appearing on the stub of the ballot as provided in the Municipal Election Code.²
- E. Any judge of election or alternate applying for and receiving an absent voter's ballot pursuant to this Section, in casting such ballot, shall make and subscribe to the affidavit, shall mark the ballot, and shall seal it in the envelope in the manner provided by the Municipal Election Code.³ The envelope shall thereupon be handed to the City Clerk or his designated representative who shall return it to the office of the Clerk. All such envelopes containing absent voters' ballots shall be in the hands of the City Clerk not later than the hour of five o'clock (5:00) P.M. on the day of election.

1. C.R.S. 1973 § 31-10-1003, as amended.

2. C.R.S. 1973 § 31-10-1002(c), as amended.

3. C.R.S. 1973 § 31-10-1004, as amended.

- F. Upon receipt of an absent voter's ballot cast pursuant to this Section, the City Clerk shall proceed to process such ballot in the same manner as other absent voters' ballots, as provided by the Municipal Election Code.
- G. All provisions of the Municipal Election Code which are not inconsistent with the provisions of this Section shall apply to the voting by absentee ballot of judges of election or alternates who are serving in a precinct other than one in which they are registered electors. (1980 Code)

5-1-304: WATCHERS:

- A. The City Clerk shall deliver to the appropriate judges of election the names of all watchers certified to act in each precinct; provided, not more than one watcher shall be named to represent those in favor of the issue, and not more than one watcher be named by those against the issue.
- B. Each watcher shall conduct himself in an orderly manner, and shall not electioneer for any candidate or measure while acting as a watcher. In case the number of watchers is such as to interfere with the proper rights of voters, or with the proper conduct of such election by the judges of election, a majority of the judges of election at any precinct may cause all watchers, except two (2) chosen by the judges of election by lot from the number present, to remain outside the polling place. (Ord. 4493; 1968 Code, § 4-7)

*CHAPTER 5 ELECTIONS***ARTICLE 1 GENERAL MUNICIPAL ELECTIONS***PART 4 DISTRICTING AND REDISTRICTING*

SECTION:

5-1-401: Preliminary Report

5-1-402: Hearing; Protests

5-1-403: Final Report

5-1-401: **PRELIMINARY REPORT:** On or before November 1 of the year preceding any City election at which all district Councilmen are to be elected, the City Clerk shall prepare a report districting the City into four (4) election districts having substantially equal populations. All of the area in each district shall be contiguous. Upon completion of the report, the City Clerk shall set for a public hearing the report concerning the division of the City into the four (4) election districts. The City Clerk shall cause to be published, at least fourteen (14) days before the hearing, the report, the map and a written description of the election districts, and the time and place of the public hearing. (Ord. 4438; 1968 Code § 4-16; 1980 Code)

5-1-402: **HEARING; PROTESTS:** Any person may protest such districting upon the grounds that the same is contrary to law or to the spirit and intent of the City Charter. Such protest may be presented orally or in writing to the City Clerk at such hearing. The City Clerk shall, after the hearing, take into consideration all valid protests and determine whether to amend or change the report, map and written description. (Ord. 4438; 1968 Code § 4-17)

5-1-403: **FINAL REPORT:** When the City Clerk shall determine that such districting is in accordance with law and the City Charter, he shall direct districting of the City to conform with his final report at least one hundred twenty (120) days and not more than one hundred fifty (150) days before the general municipal election at which all district Councilmen are to be elected. (Ord. 4438; 1968 Code § 4-18; 1980 Code)

CHAPTER 5 ELECTIONS

ARTICLE 1 GENERAL MUNICIPAL ELECTIONS

PART 5 INITIATED ORDINANCES

SECTION:

- 5-1-501: Charter
- 5-1-502: Title Procedures; Appeal
- 5-1-503: Requirements of Petitions - Initiative, Referendum, Recall, and Charter Amendment
- 5-1-504: Sufficiency of Petitions
- 5-1-505: Protest and Clerk Investigation Procedures

5-1-501: **CHARTER:** Article XIV of the Charter controls the procedure of recall, initiative and referendum. It is the purpose of this Part to clarify those procedures without modification of the Charter. The Municipal Home Rule Act of 1971 as such now exists or as may be amended controls amendments to the Charter. It is the purpose of this Part to clarify those procedures without modification of the Municipal Home Rule Act of 1971.¹ (Ord. 86-24)

5-1-502: **TITLE PROCEDURES; APPEAL:**

- A. The original draft of all initiated ordinances or amendments to the City Charter to be enacted by the people, before being circulated shall be submitted to the City Clerk without any title thereto. Within three (3) working days after such submission, the City Clerk shall call to his assistance, the City Attorney and the Presiding Judge of the Municipal Court, the three (3) of whom a majority controlling shall designate and fix a title for the proposed ordinance or Charter amendment within five (5) working days thereafter, which title shall correctly and fairly express the true intent and meaning of the initiated ordinance or Charter amendment. Immediately thereafter the City Clerk shall deliver the same to the parties presenting it.
- B. If any persons presenting such an initiative ordinance or Charter amendment are not satisfied with the title thus provided and claim it to be unfair or that it does not fairly express the true meaning and intent of the proposed initiated ordinance or City Charter amendment,

- B) then within forty eight (48) hours after its return, they may file a petition with the City Clerk for rehearing, which shall be passed upon by the Clerk, City Attorney, and Presiding Judge within forty eight (48) hours thereafter. If overruled, said persons may appeal to the City Council by filing an appeal with the City Clerk within five (5) days thereafter. The matter shall be placed on the next City Council Agenda and disposed of summarily, either by affirming the action of the Clerk, City Attorney, and Presiding Judge or modifying it. (Ord. 86-24)

5-1-503: **REQUIREMENTS OF PETITIONS - INITIATIVE, REFERENDUM, RECALL, AND CHARTER AMENDMENT:**

- A. At the top of each page of every initiative, referendum, recall, or Charter amendment petition circulated within the City shall be printed in plain red letters no smaller than the impression of ten point, bold face type, the following:

“WARNING:

IT IS AGAINST THE LAW:

For anyone to sign any initiative, referendum, recall, or Charter amendment petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such petition when not a registered elector.

*DO NOT SIGN THIS PETITION
UNLESS YOU ARE A
REGISTERED ELECTOR*

*To be a registered elector you must be a citizen of Colorado and registered to vote in the City of Colorado Springs. Do not sign this petition unless you have had an opportunity before signing to read the full text of the matter proposed, sought to be reconsidered, or the grounds upon which recall is sought.
(use applicable language)”*

- B. Any initiative, referendum, recall or Charter amendment petition circulated within the City

¹. See Sec. 31-2-201, et. seq. C.R.S. (1977 Repl. Vol. 1984 Cum. Supp.)

- B) shall be signed only by registered electors by their own signature, after which the signor shall print his name, his place of residence, including his house and/or apartment number, street address and zip code, and the date of signing the same. To each such petition shall be attached an affidavit of the circulator, stating his address and stating that he is a registered elector, that he circulated the petition, that each signature thereon was affixed in his presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best of the knowledge and belief of the circulator, each of the persons signing the petition was at the time of signing a registered elector, that he has neither received nor entered into any contract whereby in the future he will receive any money or thing of value in consideration for the circulation of such petition by him, and that he believes that no other person has so paid or will pay, directly or indirectly, any money or other thing of value to any signor for the purpose of inducing or causing such signor to affix his signature to such petition. The City Clerk shall not accept for filing any petition which does not have attached thereto an affidavit meeting the requirements of this Section.
- C. No petition for any recall or Charter amendment shall be circulated within the City by any person who is not a registered elector in the City. No petition for any initiative or referendum shall be circulated within the City by any person who is not a registered elector of El Paso County. (Ord. 86-24)

5-1-504: SUFFICIENCY OF PETITIONS:

- A. Within thirty (30) days after the filing of a petition for initiative, referendum, recall, or Charter amendment the City Clerk shall complete a review of the petition and may initially find insufficient signatures of individuals in the following categories:
1. Address shown by signor not located within the city limits of the City of Colorado Springs.
 2. Any signature appearing on the petition more than once, in which event all signatures of said individuals shall be deleted except one.

- A) 3. More than one individual's signature on a signature line, in which event the line shall count as one.
4. An incomplete address being given by an individual (i.e. omitted designation of street, avenue, drive, court, place, way, east-west, etc.) and in the event that specific residence number can be applied to more than one residence, said signature shall not be counted.
5. Signature lines containing an incomplete date, inappropriate date, or no date shall not be counted.
6. Signatures of individuals who are not registered electors in the City.
- B. If the petitions do not contain the requisite number of signatures the Clerk shall return the petitions to the petition committee with his certificate specifying the particular of insufficiency. The petition committee shall thereafter have thirty (30) days to correct the insufficiency or may withdraw the petition without prejudice to filing a new petition for the same purpose.
- C. If the petitions contain the requisite number of signatures, the Clerk shall have the power to investigate as he deems necessary compliance with the provisions of Charter Section 114(b) and this Part. (Ord. 86-24)

5-1-505: PROTEST AND CLERK INVESTIGATION PROCEDURES:

- A. A protest to an initiative, referendum recall, or Charter amendment petition may be filed in the office of the City Clerk by any registered elector of the City, within thirty (30) days after the petition is filed with the City Clerk. The protest shall set forth with particularity the grounds of such protest and the names, if any, protested. The City Clerk shall mail a copy of such protest to the petition committee, together with a notice fixing a time for hearing such protest not less than five (5) days nor more than fifteen (15) days after such notice is mailed.
- B. Any investigation the Clerk shall conduct for compliance with Charter Section 114(b) and this

- B. Part of the Code shall follow subsection 5-1-505A above..
- C. All records and hearings shall be public under this Section and all testimony shall be under oath, and the City Clerk, shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon failure of any witness to obey the subpoena, the City Clerk may petition the District Court for an order compelling the witness to appear and testify or produce documentary evidence. The result of such hearing shall be certified to the petition committee and the protesters.
- D. The finding of the City Clerk as to the sufficiency or insufficiency of any petition shall be final agency action. (Ord. 86-24)

*CHAPTER 5 ELECTIONS***ARTICLE 1 GENERAL MUNICIPAL ELECTIONS***PART 6 CHARTER AMENDMENTS***SECTION:**

5-1-601: Affidavits

5-1-602: Number of Signatures Required

5-1-601: **AFFIDAVITS:** Each qualified elector signing a Charter amendment petition shall add to his signature his place of residence. The circulator or circulators of each Charter amendment petition shall make an affidavit that each signature thereon is the signature of the person whose name it purports to be and that each signer has stated to the circulator that he is a qualified elector of the City. The signature of each signer of a petition shall constitute prima facie evidence of his qualifications. (Ord. 74-125; 1968 Code § 4-43)

5-1-602: **NUMBER OF SIGNATURES REQUIRED:** The City Clerk, upon submission of a Charter amendment in accordance with Section 5-1-601 above, upon the return of such Charter amendment to the petitioners, shall notify the petitioners of the required number of signatures to be affixed to the Charter amendment petition. Such number of signatures shall be equal to at least five percent (5%) of the registered electors of the City.¹ (Ord. 78-96; 1968 Code § 4-44)

1. C.R.S. 1973 § 31-2-210, as amended.

CHAPTER 5 ELECTIONS

ARTICLE 2 CAMPAIGN DISCLOSURES

PART 1 DISCLOSURE OF PRIVATE INTERESTS

SECTION:

- 5-2-101: Disclosure Required
- 5-2-102: Contents of Statement
- 5-2-103: Signing, Verification of Statement
- 5-2-104: Statement a Public Record
- 5-2-105: Penalty

5-2-101: DISCLOSURE REQUIRED:¹ Every candidate for office of Mayor and City Council shall file with his affidavit accepting nomination² a statement of disclosure with the City Clerk. The Mayor and every member of the City Council shall, within thirty (30) days after each anniversary of assuming office, file a statement of disclosure with the City Clerk; provided, however, that the Mayor and any member of the City Council may in lieu thereof file a written statement with the City Clerk that there has been no change of condition since the previous filing of a statement. For purposes of determining the anniversary of assuming an office, the date on which the term of office began is deemed the date of assuming office, whether or not the person holding the office actually assumed the office on that date. (Ord. 74-44; Ord. 83-153; 1968 Code § 4-21)

5-2-102: CONTENTS OF STATEMENT:

- A. The statement of disclosure required to be filed shall contain:

1. A statement of the nature of the investment or interest, direct or indirect, of the person making disclosure and such person's spouse in any business entity or commercial venture, located in or doing business in El Paso County.

2. The name of the business entity or commercial venture and a description of the activity in which such business entity or commercial venture is engaged.

- A) 3. A statement of the nature of the investment or interest, direct or indirect, of the person making disclosure and such person's spouse in any real estate located in El Paso County and the address or other precise location of the real estate; provided, however, this information need not be provided with respect to an interest in real property which is used principally as the residence of the person making the disclosure.

- B. An indirect interest or investment is defined as any investment or interest of the person making the disclosure, owned or held by an agent on his behalf, or owned or held by a trust of which the person making disclosure is a beneficiary. (Ord. 74-44; 1968 Code § 4-22)

5-2-103: SIGNING, VERIFICATION OF STATEMENT: All statements filed under this Article shall be signed and verified by the person making the disclosure. The verification shall state that the person making the disclosure has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete. (Ord. 74-44; 1968 Code § 4-25)

5-2-104: STATEMENT A PUBLIC RECORD: Each statement of disclosure or statement of no change of condition shall be public information available to any person upon request during normal working hours. (Ord. 74-44; 1968 Code § 4-24)

5-2-105: PENALTY: Every person who wilfully files a false or incomplete statement of disclosure or statement of no change of condition, or who wilfully fails to make any filing required by this Article, shall be subject to such discipline, including censure or disqualification from office, as the City Council by majority vote shall elect. Violations of this Part 1 shall not be subject to the general penalty provisions of this Code³ or any other penalty other than hereinabove stated. (Ord. 74-44; 1968 Code § 4-26)

1. City Charter, Article XIII, § 87.

2. City Charter, Article XIII, § 86.

3. See Section 1-2-101 of this Code.

CHAPTER 5 ELECTIONS

ARTICLE 2 CAMPAIGN DISCLOSURES

PART 2 CAMPAIGN EXPENDITURES AND DISCLOSURES

SECTION:

- 5-2-201: Purpose
- 5-2-202: Definitions
- 5-2-203: Filing Requirements
- 5-2-204: Candidate Affidavit
- 5-2-205: Political Committee; Statement of Organization
- 5-2-206: Deposit of Contributions
- 5-2-207: Reports; Certification and Filing
- 5-2-208: Unexpended Contributions, Expenditure Deficits
- 5-2-209: Reporting Requirements, Persons
- 5-2-210: Duties of City Clerk
- 5-2-211: Campaign Funds; Use Restricted
- 5-2-212: Expenditures; Political Advertising, Rates and Charges
- 5-2-213: Campaign Withdrawals Restricted
- 5-2-214: Penalty; Affirmative Defense

5-2-201: **PURPOSE:** The City Council hereby finds and declares that the interests of the people of this City can be better served through a more informed public; that the trust of the people is essential to representative government; and that the public disclosure and regulation of certain campaign practices will serve to increase the people's confidence in their elected officials. Therefore, it is the purpose of this Part 2 to promote public confidence in government through a more informed electorate. (Ord. 74-120; 1968 Code § 4-29)

5-2-202: **DEFINITIONS:** As used in this Part 2, the following terms shall have the meanings hereafter designated unless the context otherwise requires:¹

CAMPAIGN TREASURER: The treasurer of any candidate for nomination, retention or election or of any political committee. A candidate may appoint himself campaign treasurer.

CANDIDATE: Any person who seeks election to the City Council or office of Mayor. A person is a candidate for election if he has publicly announced his intention to seek election to the City Council or

office of Mayor; has filed nominating petitions for the City Council or office of Mayor; has been chosen to fill any vacancy; or as an incumbent, still has an unexpended balance of contributions or a debt or deficit or who receives contributions or contributions in kind.

CONTRIBUTION: A gift, loan, pledge or advance in money, or a guarantee of a loan made to or for any candidate or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. "Contribution" includes a transfer of any money between one political committee and another; a gift of money to or for any incumbent in office from any other person, the purpose of which is to compensate him for his public service or to help defray his expenses incident thereto but which are not covered by official compensation; the payment of any money by any person other than a political committee working on a candidate's behalf for political services rendered to the candidate or political committee; any payment made to third parties at the request of or with the prior knowledge of a candidate, political committee, or agent of either; and any payment made after an election to meet any deficit or debt incurred during the course of the campaign. "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate or political committee. Any transfer of money between political committees is an expenditure by the political committee which dispenses the money and is a contribution to the political committee which receives the money.

CONTRIBUTION IN KIND: A gift or loan of any item of real or personal property other than money made to or for any candidate or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election or defeat of any candidate. "Contribution in kind" includes a gift or loan of any item of real or personal property, other than money, to or for any incumbent in office from any person, the purpose of which is to compensate him for his public service or to help him defray his expenses incident thereto but which are not covered by official compensation. Personal services are a contribution in kind by the person

1. For definitions of general application, see Section 1-1-203 of this Code.

paying compensation therefor; volunteer services are not included. "Contribution in kind" does not include an endorsement of candidacy or issue by any person. In determining the value to be placed on contribution in kind, a reasonable estimate of fair market value shall be used.

ELECTION: Any general or special election, or any election at which an issue is submitted to the electorate as required or permitted by law. "Election" includes a recall election held pursuant to law.

EXPENDITURE: A payment, distribution, loan or advance of any money or contribution in kind by any candidate, political committee, or agent of either for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. "Expenditure" does not include services provided without compensation by any candidate or political committee, or expenditures from the candidate's own funds for his personal or family activities. An expenditure occurs when the actual payment is made, or when there is a contractual agreement and the amount is determined.

ISSUE: Any proposition or initiated or referred measure which is to be submitted to the electors for their approval or rejection. An issue includes the recall of any Councilman.

PERSON: Any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

POLITICAL COMMITTEE: Any two (2) or more persons who are elected, appointed or chosen, or who have associated themselves or cooperated for the purpose of accepting contributions or contributions in kind, or making expenditures to support or oppose a candidate for City Council or Mayor, or seek to influence the passage or defeat of any issue. "Political committee" includes a separate political education or political action fund or committee which is associated with an organization or association formed principally for some other purpose and includes an organization or association formed principally for some other purpose insofar as it makes contributions or contributions in kind or expenditures. (Ord. 74-120; Ord. 83-153; 1968 Code § 4-30)

5-2-203: **FILING REQUIREMENTS:**

- A. For the purpose of meeting the filing requirements of this Part 2, all candidates for

- A) City Council and Mayor and political committees shall file with the City Clerk.
- B. Reports required to be filed by this Part 2 shall be deemed timely filed if mailed by first class mail and postmarked or received by the City Clerk not later than the designated day.
- C. Any political committee in support of or in opposition to any issue which receives during any calendar year contributions or contributions in kind not exceeding in the aggregate two hundred fifty dollars (\$250.00) or which makes expenditures which do not exceed in the aggregate two hundred fifty dollars (\$250.00) shall not be subject to the reporting provisions of this Part 2. The provisions of this subsection shall not exempt any political committee from the requirements of Section 5-2-205. (Ord. 74-120; Ord. No. 83-153; 1968 Code § 4-31)

5-2-204: CANDIDATE AFFIDAVIT: When any individual becomes a candidate, such individual shall certify by affidavit filed with the City Clerk within ten (10) days that he is familiar with the provisions of this Part 2. Any contributions or expenditures received or made in behalf of the candidacy of such individual prior to the filing of such affidavit, shall be reported in the first reporting period under the disclosure requirements of this Part 2. Nothing in this Section shall prohibit an individual from filing such affidavit prior to the time he becomes a candidate. (Ord. 74-120; 1968 Code § 4-32)

5-2-205: **POLITICAL COMMITTEE; STATEMENT OF ORGANIZATION:**

- A. Every political committee supporting or opposing a candidate or issue shall file a statement of organization with the City Clerk no later than forty eight (48) hours after opening a bank account or contracting for services as required in Section 5-2-206.
- B. A statement of organization shall include:
 - 1. The name, address, the candidate or issue it supports or opposes, and any other purpose of the committee; and
 - 2. The name and address of the campaign treasurer of the political committee. (Ord. 74-120; Ord. 85-146; 1968 Code § 4-33; 1980 Code)

5-2-206: DEPOSIT OF CONTRIBUTIONS: All contributions received by a candidate or political committee shall be deposited in a financial institution in a separate account whose title shall include the name of the candidate or political committee. All records pertaining to such accounts shall be maintained by the candidate or political committee for sixty (60) days after submission of the final report unless a complaint is filed, in which case they shall be maintained until final disposition of the complaint in any consequent litigation. Such records shall be subject to inspection at any hearing held pursuant to this Part 2. (Ord. 74-120; 1968 Code § 4-34)

5-2-207: REPORTS; CERTIFICATION AND FILING:

- A. The campaign treasurer shall file reports of all contributions received and all expenditures made by or on behalf of such candidate or political committee. Reports shall be filed six (6) days before and thirty (30) days after any election. Filings shall be complete as of one day prior to the filing date.
- B. Any incumbent in office who receives any contribution or contribution in kind from any other person, the purpose of which is to compensate him for his public services or to help him defray his expenses incident thereto, shall file with the City Clerk on or before January 15 of each year a supplemental report for the preceding calendar year. Such reports shall be on forms prescribed by the City Clerk and shall contain substantially the same information as prescribed in subsection D of this Section.
- C. All reports required by this Section shall be filed with the City Clerk and shall be open to inspection by the public during regular business hours. Any report which is deemed to be incomplete by the City Clerk shall be accepted on a conditional basis, and the campaign treasurer shall be notified by registered mail with respect to any deficiencies found. The campaign treasurer shall have seven (7) days from receipt of such notice to file an addendum to the report, providing all information deemed necessary to complete the report in compliance with this Section.

D. Each report required by this Section shall contain the following information:

- 1. The amount of funds on hand at the beginning of the reporting period;
- 2. The name and address of each person who has made an aggregate contribution to or for such candidate or political committee within the reporting period in excess of fifty dollars (\$50.00) or a contribution in kind in excess of one hundred dollars (\$100.00), together with the amount and date of such contribution, or a chronological listing of all contributions and contributions in kind including the name and address of each contributor;
- 3. The total sum of all contributions and contributions in kind to or for such candidate or political committee during the reporting period;
- 4. The name and address of each person to whom expenditures have been made by or on behalf of the candidate or political committee within the reporting period in excess of twenty five dollars (\$25.00), together with the amount, date and purpose of each expenditure;
- 5. The total sum of all expenditures made by such candidate or political committee during the reporting period;
- 6. The name and address of any bank or other depository for funds used by the candidate or political committee.

E. The provisions of this Section and Section 5-2-204 shall not apply to any association, political party, political organization, corporation, labor organization, or any other group of persons which receives contributions or contributions in kind from any person through events such as dinners, luncheons, rallies, or other fund-raising events, if such contributions or contributions in kind are intended to be given to another organization or group of persons which in turn distributes or contributes such contributions or contributions in kind to one or more candidates or political committees; except the provisions of paragraph 2 of subsection D of this Section shall apply to any such organization or group of

- E) persons for each individual contribution or contribution in kind which exceeds twenty five dollars (\$25.00). The reporting provisions of this Section shall apply to the organization or group of persons receiving such contributions or contributions in kind.
- F. Notwithstanding any other reports required under this Section, the campaign treasurer and any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons making the contribution shall file reports of any contribution or contribution in kind in excess of five hundred dollars (\$500.00) given to and received by the candidate or political committee at any time within sixteen (16) days preceding the election. This report shall be filed no later than twenty four (24) hours after receipt of said contribution. (Ord. 74-120; Ord. 85-146; 1968 Code § 4-35)

5-2-208: UNEXPENDED CONTRIBUTIONS, EXPENDITURE DEFICITS:

- A. Any report filed under Section 5-2-207 shall be final unless it shows an unexpended balance of contributions or expenditure deficit in which event a supplemental report shall be filed one year after the election to which it applied and annually thereafter until such report shows no such unexpended balance and no such deficit. In the event the status of the balance or deficit is unchanged, no report need be filed for the preceding calendar year. Each such report shall be complete through the end of the last preceding calendar year and shall state the disposition of any unexpended balance or deficit.
- B. The report required under subsection A of this Section shall disclose the full amount of any loan reasonably related to the campaign, the method of the loan's disposition, the balance due on the loan, the interest, if any, and the name of the person making the loan. If the loan is not paid in full within thirty (30) days after the election to which it applied, the candidate shall file, annually on the anniversary date of the election to which the loan applied, a report concerning the disposition of the loan until the loan is repaid. Each report concerning loans made to any candidate or political committee shall contain the

- B) information required by this Section. (Ord. 74-120; 1968 Code § 4-36)

5-2-209: REPORTING REQUIREMENTS; PERSONS:

- A. Not less than six (6) days before an election and not more than thirty (30) days after the date of an election, each person who makes any expenditure directly or indirectly, in an aggregate amount exceeding one hundred dollars (\$100.00) in support of or in opposition to any specific candidate or issue, other than by contribution or contribution in kind to a candidate or political committee directly, shall file an individual statement of the expenditure with the City Clerk, which report shall contain the following information:

1. The name and address of any person to whom an expenditure in excess of twenty five dollars (\$25.00) has been made by any such person in support of or in opposition to any such candidate or issue during the reporting period, together with the amount, date and purpose of such expenditure;

2. The total sum of all expenditures made in support of or in opposition to any such candidate or issue. (Ord. 74-120; 1968 Code § 4-37)

5-2-210: DUTIES OF CITY CLERK: The City Clerk shall:

- A. Prescribe forms for statements and other information required to be filed by this Part 2.
- B. Develop a filing and indexing system for his office consistent with the purpose of this Article.
- C. Preserve any statement or images of that statement required to be filed by this Part 2 for a period ending at the termination of the term of office of the candidate who is elected, and statements or images of those statements of all other candidates or political committees for a period of one year after the date of receipt.
- D. Make the reports and statements filed with him available for public inspection and copying under his supervision, commencing as soon as practicable but not later than the end of the second day following the day during which it

- D) was received. He shall permit copying of any such report or statement by hand or by duplicating machine as requested by any person at the expense of such person. No information copied from such reports and statements shall be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.
- E. Notify the person required to file a statement or report that he has failed to file such statement or report. (Ord. 74-120; 1968 Code § 4-38)

5-2-211: CAMPAIGN FUNDS; USE RESTRICTED: No candidate or campaign treasurer shall use any contribution or contribution in kind received from any person for private purposes not reasonably related to influencing the passage or defeat of any issue or the nomination, retention, election or defeat of any candidate or to voter registration or political education. (Ord. 74-120; 1968 Code § 4-39)

5-2-212: EXPENDITURES; POLITICAL ADVERTISING, RATES AND CHARGES: No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space or materials and services. Any such rate shall not be rebated, directly or indirectly. Nothing in this Section shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees if such adjustments are normal charges paid by other advertisers. (Ord. 74-120; 1968 Code § 4-40)

5-2-213: CAMPAIGN WITHDRAWALS RESTRICTED: No person shall pay, cause to be paid, or attempt to pay to any candidate or to any political committee any money or any other thing of value for the purpose of encouraging a candidate to withdraw his candidacy, nor shall any candidate offer to withdraw his candidacy in return for money or any other thing of value. (Ord. 74-120; 1968 Code § 4-41)

5-2-214: PENALTY; AFFIRMATIVE DEFENSE:

- A. Any person who knowingly violates any provision of this Part 2 or who gives or accepts

- A) any contribution or contribution in kind required to be reported under Section 5-2-207 in such a way as to hinder or prevent identification of the true donor, shall be guilty of a violation of the ordinances of the City, punishable as a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500.00) for each offense. Any such candidate shall, in addition, forfeit his right to assume the nomination or to take the oath for the office to which he may have been elected, unless he has already taken said oath, in which case the office shall be vacated. In the event the office to which the candidate has been elected is vacated, the vacancy to said office shall be filled as provided by law.
- B. It shall be an affirmative defense to prosecution under this Part 2 that the offender did not have actual knowledge of his responsibility under this Part 2 and was an uncompensated volunteer. (Ord. 74-120; Ord. 82-164; 1968 Code § 4-42)

CHAPTER 6
FINANCE MANAGEMENT

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CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 1 FINANCE MANAGEMENT PROCEDURES

PART 1 FINANCIAL PROCEDURES, OFFICERS

SECTION:

- 6-1-101: Definitions
- 6-1-102: Budget; Creation of Accounts
- 6-1-103: Appropriation and Tax Levy Ordinance; Amendment
- 6-1-104: Transfer of Funds Within Departments or Special Funds
- 6-1-105: Transfer of Funds Between Departments or Special Funds
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- 6-1-107: Special Projects; Abandonment or Partial Abandonment
- 6-1-108: Special Projects; Transfer of Funds
- 6-1-109: Special Projects; Non-Lapse of Appropriations
- 6-1-110: Filing of Inventories

6-1-101: **DEFINITIONS:**¹ The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

APPROPRIATION: The authorization granted in the annual appropriation ordinance of the City opposite any special fund or department.

BUDGET: The classification and allocation of an estimate of revenues and expenditures within each department and special fund. Such classification and estimate of allocation shall be prepared on forms prescribed by the City Manager and shall be for the purpose of demonstrating the work program of such department or special fund.

DEPARTMENT: Any department of the City as may be designated from time to time by the City Manager or City Council.

SPECIAL FUND: Any special fund of the City as may be designated from time to time by the City Manager or City Council. (Ord. 74-54; 1968 Code § 3-4.2a; 1980 Code)

6-1-102: **BUDGET; CREATION OF ACCOUNTS:** After the budget is approved by the City Council,² the City Controller shall set up the necessary accounts and assign account numbers to specific items in the budget, which accounts shall be designated as appropriation accounts. He shall set up the fund accounts as set forth in the budget and shall pay only charges of the nature classified. (Ord. 76-54; 1968 Code § 3-4.2b)

6-1-103: **APPROPRIATION AND TAX LEVY ORDINANCE; AMENDMENT:**

A. From time to time, the City Manager may revise or amend the budget to reflect corrections of revenues and expenditures, and upon so doing shall transmit the same to the Council with his recommendation that the Council adopt an amendment or amendments to the annual appropriation ordinance³ to reflect such corrections. The City Council shall consider such recommendations and may adopt the same with or without amendment.

B. In amending the appropriation ordinance, the City Council may reduce or omit any item or add or increase the same.⁴ By ordinance, the Council may amend the annual tax levy and appropriation ordinances to reflect corrections of revenue and expenditures to accord with actual fact. Also, in the event of casualty, accident or unforeseen contingency, the City Council may by ordinance make a new or special appropriation. (Ord. 76-54; 1968 Code § 3-4.2d; 1980 Code)

1. For definitions of general application, see also Section 1-1-203 of this Code.

2. City Charter, Article VII, § 37.

3. City Council annually appropriates by ordinance the sums contained in the budget. See City Charter, Article VII, § 39.

4. Ed. Note: No amendment to the budget may increase authorized expenditures to an amount greater than the total of estimated income. City Charter, Article VII, § 37(a).

6-1-104: TRANSFER OF FUNDS WITHIN DEPARTMENTS OR SPECIAL FUNDS: At any time, the City Manager may authorize the City Controller to transfer any unexpended appropriation account balance or portion thereof from one account number or classification of expenditure to another within the same department or special fund. (Ord. 76-54; 1968 Code § 3-4.2c; 1980 Code)

6-1-105: TRANSFER OF FUNDS BETWEEN DEPARTMENTS OR SPECIAL FUNDS: By resolution, the City Council may authorize the City Manager to transfer any unexpended appropriation account balance or portion thereof or transfer funds from one department or special fund to another. (Ord. 76-54; 1968 Code § 3-4.2d)

6-1-106: TRANSFER OF FUNDS FROM CONTINGENCY FUND: At any time, the City Manager may authorize the City Controller to transfer any unexpended balance or portion thereof from the Contingency Fund to another department or special fund. The City Manager shall report each such transfer from the Contingency Fund to the City Council not later than the first regular Council meeting of the calendar month following the date of such transfer, together with a statement of the balance remaining in said Contingency Fund following such transfer. (Ord. 76-54; 1968 Code § 3-4.2c)

6-1-107: SPECIAL PROJECTS; ABANDONMENT OR PARTIAL ABANDONMENT: At any time, the City Manager may recommend the abandonment or partial abandonment of a special project. Such recommendation shall be accompanied by a detailed description of the reduction in scope or partial abandonment. Upon receipt of such recommendation and supporting data, the City Council by resolution may abandon or partially abandon such special project. (Ord. 76-54; 1968 Code § 3-4.2c; 1980 Code)

6-1-108: SPECIAL PROJECTS; TRANSFER OF FUNDS: The City Manager may transfer appropriation accounts or portions thereof from one special project to another only after a project has been completed. In the case of special projects that have been abandoned or partially abandoned pursuant to Section 6-1-107 of this Chapter, the City Manager may transfer appropriation accounts or portions thereof from one project to another only upon approval of such transfer by the City Council. (Ord. 76-54; 1968 Code § 3-4.2c; 1980 Code)

6-1-109: SPECIAL PROJECTS; NON-LAPSE OF APPROPRIATIONS:¹

- A. Appropriations for construction or other improvements included in the special projects portion of the General Fund budget shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned.
- B. Any unexpended funds which were appropriated for a special project which has been completed or abandoned and which have not been transferred pursuant to Section 6-1-108 of this Article shall lapse into the General Fund for reappropriation by ordinance as the City Council shall direct. (Ord. 4593; 1968 Code § 3-4.1; 1980 Code)

6-1-110: FILING OF INVENTORIES: The City Manager shall cause department heads to account for all capital items of equipment, real estate, buildings and permanent installations owned by the City. Such accounting shall be in accordance with rules and regulations promulgated by the City Manager in accordance with generally accepted accounting principles. (Ord. 76-54; 1968 Code § 3-14; 1980 Code)

1. See also Section 6-3-101 of this Chapter.

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 1 FINANCE MANAGEMENT PROCEDURES

PART 2 PURCHASES

SECTION:

86-23; 1968 Code § 3-4-301)

- 6-1-201: Title
- 6-1-202: Definitions
- 6-1-203: Establishment of Purchasing Office
- 6-1-204: Purchasing Manager
- 6-1-205: Competitive Bidding Required
- 6-1-206: Formal Bidding Procedure
- 6-1-207: Sufficiency of Funds
- 6-1-208: Cooperative Purchasing
- 6-1-209: Exclusions

6-1-204: PURCHASING MANAGER:

- A. Appointment. The purchasing office shall be administered by and shall be under the general supervision of the Purchasing Manager, who shall be appointed by the Deputy City Manager Administrative Services.
- B. Purchasing Authority. The Manager shall have the power and it shall be his duty:

6-1-201: **TITLE:** This Part 2 shall be known and may be cited as the "Purchasing Ordinance of the City". (Ord. 80-1; 1968 Code § 3-4-101)

1. Purchase or Contract. To purchase or contract for all supplies and contractual services needed by any using department, division, office, or agency which derives its support wholly or in part from the City, in accordance with such rules and regulations as the Manager shall adopt for the internal management and operation of the purchasing office and such other rules and regulation as shall be prescribed by the Deputy City Manager Administrative Services.

6-1-202: **DEFINITIONS:**¹ The following terms, as used in this Part 2, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

- C. Other Powers and Duties. In addition to the purchasing authority conferred in 6-1-204B and in addition to any other powers and duties conferred by this Part 2, the Manager shall:

PURCHASING MANAGER or MANAGER: The Purchasing Manager of the City.

SHALL: Is always mandatory and not merely directory.

1. Minimum Expenditure. Act to procure for the City the highest quality in supplies and contractual services at least expense to the City;

USING AGENCY: Includes any department, agency, commission, bureau or other unit of the City government using supplies or procuring contractual services as provided for in this Part 2. (Ord. 80-1; 1968 Code § 3-4-201)

2. Open Competition. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales;

6-1-203: **ESTABLISHMENT OF PURCHASING OFFICE:** There is hereby established a Purchasing Office.² (Ord. 80-1; Ord.

3. Rules and Regulations. Establish, and amend when necessary, all rules and

1. For definitions and rules of construction of general application, see Section 1-1-203 of this Code.

2. See Chapter 2, Article 1 of this Code.

C,3) regulations authorized by this Part 2 and any others necessary to its operation;

4. Purchasing Analysis. Keep informed of current developments in the field of purchasing, prices, market conditions and new products and secure for the City the benefits of research performed in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and private businesses and organizations;

5. Forms. Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this Part 2;

6. Standard Nomenclature. Prepare and adopt a standard purchasing nomenclature for using agencies and suppliers;

7. Vendors' Catalog File. Prepare, adopt and maintain a vendors' catalog file, which shall be filed according to materials;

8. Bulk Purchases. Explore the possibilities of buying "in bulk" so as to take full advantage of discounts;

9. Federal Tax Exemptions. Act so as to procure for the City all Federal tax exemptions to which it is entitled;

10. Cooperation with Department of Finance. Cooperate with the Department of Finance so as to secure for the City the maximum efficiency in budgeting and accounting; and

11. Disqualification of Bidders. Have the authority to declare as irresponsible bidders vendors who default on their quotations, and to disqualify such vendors from receiving any business from the City for a stated period of time. (Ord. 80-1; Ord. 86-23; 1968 Code §§ 3-4-301, 302, 303, 304))

6-1-205: COMPETITIVE BIDDING REQUIRED:

All purchases of, and contracts for, supplies and services, and all sales of personal property which has become obsolete and unusable shall, except as otherwise specifically provided for in this

Part 2, be based whenever possible on competitive bids. (Ord. 80-1; 1968 Code § 3-4-401)

6-1-206: FORMAL BIDDING PROCEDURE:

- A. The provisions of this Section shall not be applicable to the purchase of technical or sole source items. Additionally, purchases of supplies, materials, equipment and services having an estimated value of less than ten thousand dollars (\$10,000.00) and sales of obsolete and unusable personal property having an estimated value of less than ten thousand dollars (\$10,000.00) may be made under informal bidding procedures in accordance with rules and regulations promulgated by the Purchasing Manager.
- B. Notice inviting bids shall be published once in at least one official newspaper in the City at least five (5) days preceding the last day set for the receipt of proposals. Such notice shall include a general description of the articles to be purchased or sold, a statement as to where bid blanks and specifications may be secured, and the time and place where the bids will be opened.
- C. Each bid shall be submitted to the Manager in a sealed envelope and shall be identified as a bid on such envelope. All bids shall be opened in public at the time and place specified in the public notices, and a tabulation of all bids received shall be posted for public inspection at such location as shall be specified in rules and regulations promulgated by the Manager.
- D. The Manager may reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract when such rejection is deemed to be in the public interest.
- E. The Manager shall not accept the bid of any contractor who is in default on the payment of taxes, license fees, or other moneys due the City. (Ord. 80-1; Ord. 80-132; 1968 Code, § 3-4-402)

6-1-207: SUFFICIENCY OF FUNDS: Except in cases of emergency, the Manager shall not issue any order for delivery on a contract or open market purchase until the proper officer or

department head shall have certified, after preaudit, that there is to the credit of the using agency concerned a sufficient appropriation balance, in excess of all unpaid obligations, to defray the cost of such contract or open market purchase. (Ord. 80-1; 1968 Code § 3-4-403)

6-1-208: COOPERATIVE PURCHASING: The Manager shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the City would be served thereby. (Ord. 80-1; 1968 Code § 3-4-404)

6-1-209: EXCLUSIONS:¹ Notwithstanding any provision to the contrary, the provisions of this Part 2 shall not be applicable to the leasing, rental, acquisition, or disposition of real property. (Ord. 80-1; 1968 Code § 3-4-405)

1. See the supersession provisions of Section 1-1-402 of this Code which are applicable to this Part 2.

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 1 FINANCE MANAGEMENT PROCEDURES***PART 3 WARRANTS*

SECTION:

6-1-301: Disbursement Vouchers Required

6-1-302: Drawing of Warrants; Procedures

C) that the labor has been performed, the goods, wares and merchandise involved have been received, and that the price is proper. (Ord. 76-54; 1968 Code § 3-3g)

6-1-301: DISBURSEMENT VOUCHERS

REQUIRED: No City funds or moneys shall be expended or disbursed by the City Treasurer or by the City Controller except by vouchers approved by the City Controller; provided, however, that the City Treasurer may make minor cash disbursements from a petty cash fund to be established by vouchers drawn to that fund and approved by the City Controller. The City Controller may, in the event of temporary absences from his office, designate some person to approve such vouchers in the name of the City Controller, and when so approved, such vouchers shall be to all effects and purposes as if approved by the City Controller himself. (Ord. 76-54; 1968 Code § 3-3g)

6-1-302: DRAWING OF WARRANTS;

PROCEDURES: The City Manager and the Director of Finance and Management Services shall sign all warrants drawn upon the Treasurer.

- A. Each warrant shall state the particular fund or appropriation to which the same is chargeable and the person to whom payable, and no moneys shall be otherwise paid than upon warrants so drawn.
- B. It shall be the duty of the City Controller to see that proper authority has been granted by ordinance, contract, Council action or otherwise for the payment of all amounts for which warrants are issued, and that no warrant exceeds the appropriation upon which the same is drawn.
- C. The department head or division chief or City Council approving each such item shall ensure

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 2 CLAIMS AND GIFTS***PART 1 CLAIMS***SECTION:**

6-2-101: Claims Against the City

6-2-101: CLAIMS AGAINST THE CITY: A person claiming to have suffered an injury by the City of Colorado Springs or by an employee thereof while in the course of such employment shall make such claim against the City in accord with the provisions of the Colorado Governmental Immunity Act, as now existing or hereinafter amended.¹ (Ord. 80-36; 1968 Code § 1-93.1)

1. C.R.S. 1973 §§ 24-10-101 et seq. (as amended).

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 2 CLAIMS AND GIFTS

PART 2 GIFTS

SECTION:

- 6-2-201: Conditions of Gifts; Acceptance
 6-2-202: Designation of Donee
 6-2-203: Separate Fund Established; Records

6-2-201: **CONDITIONS OF GIFTS;**

ACCEPTANCE: Any person or organization may make gifts, devise or bequests to the City upon such terms, conditions or provisions as the donor desires. By accepting such gift, devise or bequest, the City covenants to carry out the terms, provisions and conditions of such gift, devise or bequest insofar as the same require reasonable performance by the City. However, the City Council may decline to accept any gifts the terms of which it believes may not be feasibly accomplished or are onerous to the City. (Ord. 1681; 1968 Code § 1-94)

6-2-202: **DESIGNATION OF DONEE:**

Gifts, devise and bequests may be made to the City, the City Council, to any officer, agency or employee of the City either by his personal name or official title, Memorial Hospital or to any branch, division, department or board of the City regardless of how described. All such gifts, devise and bequests shall be valid and effective as if made directly to the City, and shall be administered by the City for the benefit of the division, department or board of the City in accordance with the terms of such gift, devise or bequest; provided, however, that gifts, devise and bequests made to or for the benefit of Memorial Hospital or any department thereof, shall be administered by the Board of Trustees of Memorial Hospital. (Ord. 2627; 1968 Code § 1-96)

6-2-203: **SEPARATE FUND ESTABLISHED; RECORDS:**

- A. Unless the City Council specifically directs that a particular gift be placed in a special separate trust fund, all such gifts shall be combined in a single trust fund to be known as the Gift Trust Fund. This fund shall be administered by the City Treasurer under the control and supervision of the City Council, which shall ensure that the terms and conditions of each gift are carried out.
- B. The City Controller shall keep a separate record of the receipts, income, disbursements and status of each of said gifts. Such records shall be open to the inspection of interested parties. (Ord. 4790; 1968 Code § 1-95; 1980 Code)

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 3 CITY FUNDS

PART 1 GENERAL PROVISIONS

SECTION:

- 6-3-101: Continuance of Funds
- 6-3-102: Investment of Funds
- 6-3-103: Depository for City Funds
- 6-3-104: Responsibility of City Employees for Loss of Funds

6-3-101: CONTINUANCE OF FUNDS: If funds have been duly appropriated for a City function, indebtedness or pecuniary liability and such indebtedness or liability has been committed and incurred by the City but the contract, consideration or subject matter of said liability or indebtedness has not been completed, performed or satisfied during the year that the appropriation is made, the funds appropriated for the satisfaction and liquidation of such indebtedness or liability may be charged and encumbered for such payment and liquidation beyond the year the appropriation was made in accordance with general accounting procedures and requirements. (Ord. 2328; 1968 Code § 3-4; 1980 Code)

6-3-102: INVESTMENT OF FUNDS:

- A. Authorized by State Statutes. Any moneys of the City which are not presently required in the conduct of its respective affairs may be invested in such securities and in such manner as authorized by the statutes of the State relating to such investments, including but not limited to C.R.S. 1973, Title 24, Article 75, Part 6 and § 31-20-303, as amended and supplemented. (Ord. 78-44; 1968 Code, § 3-170)

- B. Noninsured Trust Plans. The City Treasurer may establish a noninsured trust plan with a bank or trust company authorized to exercise trust and fiduciary powers in the State of Colorado, and may invest with said trustee moneys of the Cemetery Endowment Fund, the Improvement District Surplus and Deficiency Fund and all other moneys not acquired by taxation or subject to restriction upon their investment. All said moneys so placed with the trustee shall be invested and administered pursuant to the provisions of C.R.S. 1973, Title 15, Article 1, Part 3. (Ord. 78-44; 1968 Code § 3-171)

- C. Investments of Moneys Received by Memorial Hospital. All moneys received by Memorial Hospital by donation and not otherwise restricted as to investments, may be invested by the Board of Trustees in such investments as the Board deems advisable subject only to the provisions of C.R.S. 1973, Title 15, Article 1, Part 3 (Prudent Man Rule). (Ord. 78-170; 1968 Code § 3-173)

6-3-103: DEPOSITORY FOR CITY FUNDS: The City Council by resolution shall designate banks or other depositories in which any City official or employee having custody of any funds belonging to the City may deposit the same, and the City Council may fix the terms, conditions and limits of such deposits. (Ord. 1346; 1968 Code § 1-100)

6-3-104: RESPONSIBILITY OF CITY EMPLOYEES FOR LOSS OF FUNDS: No City official or employee having the custody of funds belonging to the City or to any department

thereof shall be held responsible or liable for the loss of any such funds occasioned by the failure of any depository, provided that such depository shall have been designated by the City Council as above provided and that such funds shall have been lawfully deposited therein in accordance with the terms, conditions and limitations of such designation. (Ord. 1346; 1968 Code § 1-101)

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 2 SURPLUS AND DEFICIENCY FUND***SECTION:**

6-3-201: Fund Created

6-3-202: Source of Revenues

6-3-203: Investment of Moneys

6-3-201: **FUND CREATED:** There is hereby created a fund to be known as the Surplus and Deficiency Fund. (1980 Code)

6-3-202: **SOURCE OF REVENUES:** Where all outstanding bonds, warrants or other indebtedness have been paid in a public improvement district and any money remains to the credit of said district, it shall be transferred to a special Surplus and Deficiency Fund; and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds, warrants or other indebtedness, it shall be paid out of such fund. (Ord. 2609; 1968 Code § 3-17)

6-3-203: **INVESTMENT OF MONEYS:** To the extent that moneys remain in the Surplus and Deficiency Fund and fund moneys become available therein, it is declared to be in the interest of the City to invest said moneys in bonds of improvement districts of the City to the extent necessary, thus expediting as much as possible the financing of public improvements and also assuring safe and suitable investment of said moneys. (Ord. 2609; Ord. 77-35; 1968 Code § 3-19)

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 3 CITY FUNDS

PART 3 CONSERVATION TRUST FUND

SECTION:

- 6-3-301: Fund Created
 6-3-302: Source of Revenues
 6-3-303: Expenditures from Fund

6-3-301: FUND CREATED: There is hereby created a fund to be known as the Conservation Trust Fund. For the purposes of compliance with State law,¹ such fund shall be deemed to be the Conservation Trust Fund for the City and shall be certified by the City Treasurer to the appropriate State Department as such. (Ord. 74-99; 1968 Code § 3-20; 1980 Code)

6-3-302: SOURCE OF REVENUES: Revenues from the following sources shall be placed in such fund:

- A. All moneys presently within the fund heretofore known as the Public Space and Development Fund.
- B. All moneys paid to the City as park land fees under the provisions of Part 12 of Article 3 of Chapter 15 of this Code or any provision of the Subdivision Code² as the same may be now or hereafter amended, providing for the payment of moneys in lieu of park land fees.
- C. All moneys donated to the City from any private source or granted to the City by any public source for the purpose of acquisition, development and maintenance of new park or conservation sites.
- D. All moneys from any other source that the City Council may designate by resolution. (Ord. 74-99; 1968 Code § 3-20)

6-3-303: EXPENDITURES FROM FUND:

Moneys may be expended from such fund for the following purposes upon appropriation in the annual appropriation ordinance or by special appropriation:

A. Acquisitions:

- 1. The acquisition of interests in land and water for park or recreation purposes; or
- 2. The acquisition of land for all types of open space including but not limited to flood plains, green belts, agricultural lands or scenic areas, or for any scientific, historic, recreational, aesthetic or similar purpose.

- B. Trusts for Specific Purposes. Any moneys in this fund held in trust for a specific purpose may be expended only for such specific purpose and no other. (Ord. 74-99; 1968 Code § 3-20)

1. C.R.S. 1973 §§ 29-21-101 et seq.

2. See Chapter 15 of this Code.

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 4 SPECIAL RECREATION FUND*

SECTION:

6-3-401: Fund Created

6-3-402: Administration of Fund

6-3-401: **FUND CREATED:** There is hereby created a fund to be known as the Special Recreation Fund, which shall be for the purpose of receiving contributions from persons, organizations or entities for recreational activities. (Ord. 2882; 1968 Code, § 3-24; 1980 Code)

6-3-402: **ADMINISTRATION OF FUND:** The Special Recreation Fund shall continue until terminated by the Council, and said moneys may be carried over from year to year; subject, however, to expenditure of any part or all thereof at any time at the direction of the City Council. In all other ways, said fund shall be administered as are other City funds and subject to the same incidents except that in the event a contribution is made and accepted by the City for a specific purpose, the moneys of such contribution shall be expended only for such purpose, unless otherwise released by the contributor. (Ord. 2282; 1968 Code § 3-25)

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 5 GOLF COURSE FUNDS*

SECTION:

- 6-3-501: Funds Created
- 6-3-502: Source of Revenues
- 6-3-503: Administration of Funds

6-3-501: FUNDS CREATED:

- A. There is hereby created a fund to be known as the Patty Jewett Golf Course Fund.
- B. There is hereby created a fund to be known as the Valley Hi Golf Course Fund. (1980 Code)

6-3-502: SOURCE OF REVENUES:

- A. All moneys or revenues from operation of the Patty Jewett golf course, club house and other appurtenances shall be placed in the Patty Jewett Golf Course Fund. (Ord. 2130; 1980 Code)
- B. All moneys or revenues from operation of the Valley Hi golf course, club house and other appurtenances shall be placed in the Valley Hi Golf Course Fund. (1980 Code)

6-3-503: ADMINISTRATION OF FUNDS: The funds established by this Part 5 shall be administered separately, and in no event shall such funds be commingled in any manner. (1980 Code)

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 12 CLAIMS RESERVE FUND***SECTION:**

6-3-1201: Fund Created

6-3-1202: Source of Revenues

6-3-1203: Expenditures for Fund

6-3-1204: Accounts Within the Claims Reserve Fund

6-3-1201: **FUND CREATED:** There is hereby created a fund to be known as the Claims Reserve Fund. (Ord. 85-273)

6-3-1202: **SOURCE OF REVENUES:** The money from the following sources shall be placed in such fund: All monies appropriated by the City Council in connection with the Claims Reserve Fund set forth in Section 2-8-203, as well as earnings from investments of the monies of the Fund. (Ord. 85-273)

6-3-1203: **EXPENDITURES FOR FUND:** The funds shall continue until terminated by the City Council, and said monies may be carried over from year to year. The expenditures from the fund shall be those authorized under Section 2-8-203. (Ord. 85-273)

6-3-1204: **ACCOUNTS WITHIN THE CLAIMS RESERVE FUND:** The City Controller shall be responsible for maintaining an accounting of funds contributed by and amounts paid out on behalf of general City Departments, Utilities, Memorial Hospital and all enterprise activities so that annual contributions to the Claims Reserve Fund can be based on claims experience. (Ord. 85-273)

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 3 CITY FUNDS

PART 6 COMMUNITY DEVELOPMENT BLOCK GRANT FUND

SECTION:

- 6-3-601: Fund Created
 6-3-602: Source of Revenues
 6-3-603: Expenditures From Fund

6-3-601: **FUND CREATED:** There is hereby created a fund to be known as the Community Development Block Grant Fund. (Ord. 75-12; 1968 Code § 3-45)

6-3-602: **SOURCE OF REVENUES:** Moneys from the following sources shall be placed in such fund:

- A. All moneys awarded to the City pursuant to the Federal Housing and Community Development Act of 1974.¹
- B. All other moneys from any other source appropriated to this fund. (Ord. 75-12; 1968 Code § 3-46)

6-3-603: EXPENDITURES FROM FUND:

- A. Moneys in the Community Development Block Grant Fund shall be expended only for the purposes authorized by the Federal Housing and Community Development Act of 1974, which shall include but shall not be limited to:

- 1. The reduction and elimination of urban blight, including but not limited to:

- Park development,
 - Drainage projects
 - Curb and gutter
 - Street lighting
 - Road surfacing

- A) 2. The maintenance and increase in the housing stock available for low and moderate income families.

- B. Federal moneys deposited in this fund shall not be reallocated to the General Fund of the City.

- C. Expenditures from the Community Development Block Grant Fund may be made in the following manner:

- 1. By appropriation in the general appropriation and budget ordinance for the fiscal year, and

- 2. By special appropriation from time to time as the need therefor shall arise. Such appropriation shall designate the purpose for which such appropriation shall be expended. (Ord. 75-12; 1968 Code §§ 3-45, 3-47)

1. 42 U.S.C. §§ 5301 et seq.; 12 U.S.C. §§ 1701j-2, 1706e.

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 3 CITY FUNDS

PART 7 LAND FUND

SECTION:

- 6-3-701: Fund Created
 6-3-702: Source of Revenues
 6-3-703: Expenditures from Fund

- B. Expenditures from the Land Fund may be made in the following manner:

1. By appropriation in the general appropriation and budget ordinance for the fiscal year, and

2. By special appropriation from time to time as the need therefor shall arise. Such special appropriation shall designate the purpose for which such appropriation shall be expended. (Ord. 4843; 1968 Code §§ 3-41, 3-43)

6-3-701: **FUND CREATED:** There is hereby created a fund to be known as the Land Fund. (Ord. 4843; 1968 Code § 3-41)

6-3-702: **SOURCE OF REVENUES:** Moneys from the following sources shall be placed in such fund:

- A. All moneys from the sale of land held for the use and benefit of any department of the City; provided, however, that no moneys of the Department of Utilities shall be placed in this fund.
- B. This fund shall be deemed a special fund and the City Council may, from time to time by ordinance, appropriate moneys from the General Fund to be placed and held in this fund; or, unless otherwise provided by law, by ordinance or resolution may direct that moneys other than General Fund moneys be placed in this fund. (Ord. 4843; 1968 Code § 3-42)

6-3-703: **EXPENDITURES FROM FUND:**

- A. Moneys in the Land Fund shall be expended only for the purpose of acquiring land for City purposes and for erecting capital improvements for City purposes upon City owned land. Nothing contained herein shall be construed to limit the power of the City Council to completely eliminate this fund and place all moneys therein in the General Fund of the City.

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 8 SUBDIVISION STORM DRAINAGE FUND*

SECTION:

6-3-801: Fund Created

6-3-802: Source of Revenues

6-3-801: **FUND CREATED:** There is hereby created a fund to be known as the Subdivision Storm Drainage Fund. (1980 Code)

6-3-802: **SOURCE OF REVENUES:** All unit drainage fees paid to the City or other revenue received by the City for the construction of drainage facilities under Chapter 15 of this Code shall be placed in the Subdivision Storm Drainage Fund. Fees and revenue from each drainage basin shall be segregated in a subfund within said Subdivision Storm Drainage funds. The moneys therein shall be administered as provided in Chapter 15 of this Code. (Ord. 2841; 1968 Code § 3-23; 1980 Code)

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 9 PIKES PEAK REGIONAL DISTRICT LIBRARY*

SECTION:

6-3-901: Disposition of Trust Funds

6-3-901: **DISPOSITION OF TRUST FUNDS:**

- A. The proper City officials are hereby authorized and directed to pay and turn over to the Pikes Peak Regional District Library all income, payments and benefits accruing from the Willard B. Perkins Trust, the Margaret P. Woods Trust and the Paul Sabine Memorial Trust.
- B. The provisions of this Part 9 are effective until such time as the participation of the City in the Pikes Peak Regional District Library program may be terminated. (Ord. 2937; 1968 Code, § 3-35; 1980 Code)

*CHAPTER 6 FINANCE MANAGEMENT***ARTICLE 3 CITY FUNDS***PART 10 DAMAGED OR DESTROYED TREE AND SHRUB FUND***SECTION:**

6-3-1001: Fund Created

6-3-1002: Source of Revenues

6-3-1003: Expenditures from Fund

6-3-1001: **FUND CREATED:** There is hereby created a fund to be known as the Damaged or Destroyed Tree and Shrub Fund. (Ord. 82-54)

6-3-1002: **SOURCE OF REVENUES:** Monies from the following sources shall be placed in such Fund:

A. All monies received from individuals who remove, damage or otherwise destroy trees and shrubs located on City property. (Ord. 82-54)

6-3-1003: **EXPENDITURES FROM FUND:** The Fund shall continue until terminated by the City Council, and said monies may be carried over from year to year. The Fund shall be expended for the replacement of damaged or destroyed trees and shrubs located on City property, and at the discretion of the Director of Parks and Recreation, for the planting of new trees and shrubs on City property. (Ord. 82-54)

CHAPTER 6 FINANCE MANAGEMENT

ARTICLE 3 CITY FUNDS

PART 11 SALES AND USE TAX CAPITAL IMPROVEMENT FUND

SECTION:

6-3-1101: Fund Created
 6-3-1102: Purpose of Fund
 6-3-1103: Sources of Revenue
 6-3-1104: Expenditures from the Fund

6-3-1104: **EXPENDITURES FROM THE FUND:**

Monies from the Fund shall be expended for capital improvements as set forth in the budget adopted by the City Council each year pursuant to Article VII, §37 of the City Charter. Fund monies shall not be expended for any other purpose. (Ord. 84-27)

6-3-1101: **FUND CREATED:** There is hereby created a fund to be known as the Sales and Use Tax Capital Improvement Fund. (Ord. 84-27)

6-3-1102: **PURPOSE OF FUND:** The City Council has determined that additional expenditures are necessary by the City for capital improvements for the City. The Council further determines that capital improvement funding each year, other than the one-half percent (½ %) increase, be in accordance with an evaluation of total budget needs. The Council has determined that it is necessary and appropriate that the Sales and Use Tax and Motion Picture Theater Admissions Tax be increased from two percent (2%) to two and one-half percent (2½ %) and that the revenue derived from this additional one-half percent (½ %) increase shall be used solely for capital improvements for the City. (Ord. 84-27)

6-3-1103: **SOURCES OF REVENUE:** The sources of revenue for the Fund are all Sales and Use Tax Revenue collected pursuant to Article 2 of Chapter 7 of the Code and all Motion Picture Theater Admissions Tax revenue collected pursuant to Article 7 of Chapter 7 of the Code as specified and limited by Part 13 of Article 2 of Chapter 7 of the Code. These revenues shall be transferred to the Fund as provided in Part 13 of Article 2 of Chapter 7 of the Code and upon transfer, such revenues shall become monies of the Fund. (Ord. 84-27)

CHAPTER 7

TAXATION

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CHAPTER 7 TAXATION

ARTICLE 1 SPECIAL ASSESSMENTS

PART 1 INITIATION OF SPECIAL ASSESSMENT

SECTION:

- 7-1-101: Purpose
- 7-1-102: Notice of Assessment
- 7-1-103: Hearing; Assessment
- 7-1-104: Surcharge for Administrative Costs
- 7-1-105: Validation; Reassessment

7-1-101: **PURPOSE:** Unless otherwise specifically provided for in this Article, whenever any charge or assessment is to be made upon land by reason of any work performed or improvements made upon such land or upon adjoining public property which benefits or improves the land to be so charged or assessed, or elimination of a nuisance thereon by the City or any officer or employee thereof, or the incurring of any relocation expenses by the City as set forth in Section 17-2-109 of the Code of the City, or the incurring of any expenses by the City pursuant to abatement of imminent hazards in accordance with the provisions of Section 12-1-404 of the Code of the City, the following procedures shall be observed in order that such assessment shall become a lien upon the land. (Ord. 4326; Ord. 84-125; Ord. 84-170; 1968 Code § 3-181)

7-1-102: **NOTICE OF ASSESSMENT:** The head of the department charged with making the improvement or work for which assessment is to be made shall notify the owner of the property that such work or improvements have been completed, specifying:

- A. The nature of the work performed;
- B. The cost of such work or improvements;
- C. That any complaints or objections made in writing by the owners to the City Council and filed in the office of the City Clerk within ten (10) days after the mailing of such notice, will be heard and determined by the Council before the passage of any ordinance assessing the cost of such work or improvements; and
- D. The date and place such complaints and objections will be heard. Such notice may be by certified mail addressed to the last known address of the record owner of the property, or by any other means of service as provided in this

Article. If service is by mail, such service shall be complete upon mailing. (Ord. 4326; 1968 Code § 3-182)

7-1-103: **HEARING; ASSESSMENT:** At the time and place specified in such notice, or at some adjourned time, the City Council shall hear and determine all such complaints and objections and may thereupon make such modifications and changes as may seem equitable and just, or may confirm the cost of the assessment. Such cost of work or improvements, together with a surcharge as hereinafter provided for shall thereupon be levied, assessed, and charged by ordinance against the property upon which such work or improvement is made and shall become a perpetual lien thereon, to be collected in the same manner as herein set forth. (Ord. 4326; 1968 Code § 3-183)

7-1-104: **SURCHARGE FOR ADMINISTRATIVE COSTS:** In order to defray inspection, collection, publication and other administrative expenses, a surcharge not to exceed twenty five percent (25%) of the cost of such work or improvement shall be included in the special assessment. Such surcharge shall be computed as follows:

COST	SURCHARGE
\$ 50.00 or less	25% but not to exceed \$ 7.50
50.01 to \$100.00	15% but not to exceed \$10.00
100.01 and over	10%

(Ord. 4326; 1968 Code § 3-183)

7-1-105: **VALIDATION; REASSESSMENT:** No delay, mistake, error or irregularity in any act or proceeding herein authorized shall prejudice or invalidate any assessment, but the same may be remedied by subsequent amending acts or proceedings, as the case may require. When so remedied, the same shall take effect as of the date of the original act or proceeding.

If in any court of competent jurisdiction any final assessment made pursuant hereto be set aside, then the City Council, upon notice as required in the making of any original assessment, may make a new assessment in accordance with the provisions hereof. (Ord. 4326; 1968 Code § 3-184)

CHAPTER 7 TAXATION**ARTICLE 1 SPECIAL ASSESSMENTS****PART 2 COLLECTION OF SPECIAL ASSESSMENTS****SECTION:**

- 7-1-201: Payment of Assessments
7-1-202: Collection
7-1-203: Payment of Prorated Interests

7-1-201: PAYMENT OF ASSESSMENTS: All assessments for work or improvements made shall be due and payable without demand thirty (30) days after final approval of the assessing ordinance.

At the expiration of such thirty (30) day period, a copy of the assessing ordinance, certified by the City Clerk, shall be delivered to the County Treasurer of El Paso County for the collection of the same. All such rolls shall be named and/or numbered for convenient reference. (Ord. 4326; 1968 Code §§ 3-185,3-186)

7-1-202: COLLECTION: The County Treasurer shall receive the payment of all assessments appearing upon the assessing ordinance, with interest at the rate of one percent (1%) per month from the date of receipt of such assessing ordinance by the County Treasurer. All collections made by the County Treasurer upon such assessment roll in any calendar month shall be accounted for and paid over to the City Treasurer during the next succeeding calendar month. (Ord. 4326; 1968 Code § 3-187)

7-1-203: PAYMENT OF PRORATED INTERESTS: The owner of any divided or undivided interest in the property assessed may pay his share of any assessment, upon producing evidence of the extent of his interest satisfactory to the Treasurer having the roll in charge. (Ord. 4326; 1968 Code § 3-188)

CHAPTER 7 TAXATION

ARTICLE 1 SPECIAL ASSESSMENTS

PART 3 DELINQUENT ASSESSMENTS; SALES

SECTION:

- 7-1-301: Default in Payment of Assessments
- 7-1-302: Certificate of Purchase to City
- 7-1-303: Multiple Certificates; Disposition
- 7-1-304: Sale of Lands Acquired by Tax Deed
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- 7-1-306: Disposition of Proceeds of Sale
- 7-1-307: Relief From Hardship Anticipation
of Default
- 7-1-308: Security for Repayment
- 7-1-309: Hardship Committee
- 7-1-310: Recovery at Law

7-1-301: DEFAULT IN PAYMENT OF ASSESSMENTS: In case of default in the payment of any assessment, the County Treasurer shall advertise and sell any and all property concerning which such default has suffered, for the payment of the whole thereon. Such advertisements and sales shall be made at the same time, in the same manner, under all the same conditions and penalties and with the same effect as provided by general law for sales of real estate in default of payment of general taxes. (Ord. 4326; 1968 Code § 3-189)

7-1-302: CERTIFICATE OF PURCHASE TO CITY: At any sale by the County Treasurer of any property for the purpose of paying any assessment made hereunder, the City may purchase any such property without paying for the same in cash; and shall receive certificates of purchase therefor in the name of the City. The certificates shall be received and credited at their face value, with all interest and penalties accrued, on account of the assessments in pursuance of which the same were made. The certificates may thereafter be sold by the City at their face value, with all interest and penalties accrued, and assigned to the purchaser, and the proceeds credited to the fund from which the costs were paid. (Ord. 4326; 1968 Code § 3-189)

The City shall have the right to apply for tax deeds on such certificates of purchase at any time after three (3) years from the date of issuance of such certificates. (Ord. 4326; 1968 Code § 3-190)

7-1-303: MULTIPLE CERTIFICATES; DISPOSITION: In the event there shall be more than one assessment outstanding upon any property sold under the preceding sections at the time of sale, all outstanding assessments may be cancelled and all outstanding certificates of purchase evidencing delinquent assessments may be assigned to the purchaser at the sale or surrendered to the County Treasurer for cancellation without further Council action; provided, however, that no outstanding assessment of any special improvement district in which there remains any outstanding bonded indebtedness may be cancelled or certificate of purchase assigned. The proceeds of such sale, less all expenses, shall be prorated among the funds from which the cost of the work or improvements were made. (Ord. 4326; 1968 Code § 3-194)

7-1-304: SALE OF LANDS ACQUIRED BY TAX DEED: Cumulatively with all other remedies, the City being the owner of property by virtue of a tax deed, in satisfaction or discharge of the lien represented by such certificate of sale, may sell such property for the best price obtainable at public sale, at auction or by sealed bids. Such sale shall be after public notice by publication one time in the official newspaper, describing the property, and stating the time, place and manner of receiving bids. The time fixed for the sale shall not be less than ten (10) days after such publication. The City may reject any and all bids. (Ord. 4326; 1968 Code § 3-191)

7-1-305: PROTESTS: Any interested party, at any time within ten (10) days after the receipt of bids for the sale of property, may file with the City a written protest as to the sufficiency of the amount of any bid made or the validity of the proceedings for

the sale. If the protest be denied and no action to enjoin or restrain the City from completing the sale shall be instituted within ten (10) days thereafter, all protests or objections to the sale shall be deemed to have been waived and the City shall then convey the property to the successful bidder by quitclaim deed, excepting therefrom any outstanding liens or assessments not thereby cancelled or waived. (Ord. 4326; 1968 Code § 3-192)

7-1-306: DISPOSITION OF PROCEEDS OF SALE: The proceeds of any such sales of property shall be credited to the fund from which the costs of such work or improvement were paid. The City shall deduct therefrom the necessary expenses in securing deeds and advertising and conducting such sale. (Ord. 4326; 1968 Code § 3-193)

7-1-307: RELIEF FROM HARDSHIP ANTICIPATION OF DEFAULT: Eligible persons who are determined to have such a marginal income that they cannot pay any assessment levied by the City against the property on which they reside, may be afforded relief as hereinafter provided. Such person shall agree to reimburse the City by making monthly payments to the City Treasurer. Such monthly payments shall be not less than five dollars (\$5.00) and shall be sufficient to repay the amount advanced within a period of not more than twenty five (25) years. Interest shall be charged at the rate of three percent (3%) per annum on the unpaid balance. (Ord. 78-252; 1968 Code § 3-196)

7-1-308: SECURITY FOR REPAYMENT: In order to secure assessment relief, the property owner shall execute an installment note for the repayment of the sum advanced with interest secured by a deed of trust to the property. The note and deed of trust shall provide for acceleration so that the entire outstanding balance shall become due and payable upon the death of the obligor or the sale or transfer of the property. It shall be further provided that if at any time the City determines that the obligor is financially able to pay the outstanding balance, or that he has wilfully misrepresented his financial condition on his application, it may, upon sixty (60) days' notice, declare the entire balance due and payable. (Ord. 78-252; 1968 Code § 3-197)

7-1-309: HARDSHIP COMMITTEE: The Hardship Committee, composed as established by Section 19-7-801, shall review applications for relief from any assessments imposed by the City. This Committee shall determine eligibility for relief, based on the eligibility criteria in Section 19-7-804 of this Code, the repayment schedule and all other determinations required in the administration of this program. All decisions of this Committee shall be final, except maximum income limits for eligibility, which shall be approved by the City Council. (Ord. 78-252; 1968 Code § 3-198)

7-1-310: RECOVERY AT LAW:

- A. In case of failure to pay any assessment, or any portion thereof, or any penalty or interest thereon, when due, the City may recover at law from the owner of the property assessed the amount of such assessment, penalties and interest in any court of the County wherein the owner resides or has his principal place of business having jurisdiction of the amounts sought to be collected.
- B. The statement of costs made by the department head as herein provided, shall be prima facie proof of the amount due.
- C. It shall be the duty of the City Attorney, when requested by the City Manager, to commence action for the recovery of costs due under this Article. Such remedy shall be cumulative and in addition to all other existing remedies provided in this Article. (Ord. 4326; 1968 Code § 3-195)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 1 GENERAL PROVISIONS

SECTION:

- 7-2-101: Title
- 7-2-102: Legislative Intent
- 7-2-103: General Terms and Distinctions
- 7-2-104: Words and Phrases Defined
- 7-2-105: Trust Status of Tax
- 7-2-106: Statute of Limitations

7-2-101: TITLE: This Article shall be known and may be cited as the City of Colorado Springs Sales and Use Tax Ordinance. (Ord. 76-168; 1968 Code § 3-70)

7-2-102: LEGISLATIVE INTENT:

- A. **Use of Personal Property and Taxable Services.** It is hereby declared to be the legislative intent of the City Council that for the purposes of this Article every person who stores, uses, distributes or consumes in the City any article of tangible personal property, or taxable services purchased, leased or rented at retail, as herein defined, is exercising a taxable privilege.
- B. **Sale of Personal Property and Taxable Services.** It is hereby declared to be the legislative intent of the City Council that, for the purposes of this Article, every person who is engaged in business in the City, as herein defined, and who shall deliver or cause to be delivered to the purchaser in the City, any property or services taxable herein is exercising a taxable privilege and shall collect the tax imposed by this Article on the total purchase price of such article or articles of tangible personal property or taxable services that are purchased, sold, leased or rented at any time by or to every customer or buyer, in the manner hereinafter set forth. (Ord. 76-168; 1968 Code § 3-71)

7-2-103: GENERAL TERMS AND DISTINCTIONS:

- A. **Sales Tax Defined:** The Colorado Springs sales tax is levied on all sales, leases and rentals at retail on the basis of the purchase or sale price on purchases of tangible personal property and specific services taxable hereunder.

All sales and purchases of tangible personal property are subject to the tax, except as specifically exempted. Sales and purchases of services as specifically set forth in Part 3 of this Article are subject to the tax. The tax in reality is imposed on the purchaser. The duty is imposed on the seller to collect and remit the tax to the City under the penalties for failure to do so as prescribed herein.

- B. **Use Tax Defined.** The Colorado Springs use tax is levied upon the privilege of using, storing, distributing or otherwise consuming tangible personal property and taxable services in the City which property or service is purchased, leased or rented at retail and not subject to the Colorado Springs sales tax, without regard to whether the property or service is purchased either from sources within or without the City. Nonresident persons engaged in business in the City, as herein defined, are required to collect and remit the use tax on taxable transactions.
- C. **Distinction Between Sales and Use Tax.**
 - 1. The primary distinction between the sales tax and use tax is that the sales tax is collected by persons engaged in business in this City from the purchaser or consumer, and such person pays the tax to the City; while,
 - 2. In the absence of that tax charge, the use tax is levied directly upon the person who purchases the commodities or services, either within or outside the City, and uses the same in this City, which person must make remittance of the tax, together with returns showing the

C,2) purchase and the use of articles which are subject to the tax, directly to the City.

In accordance with this Article, any person engaged in business in the City and making sales of property or specific services subject to the use tax, even though not maintaining an office in this City, must collect and remit the use tax on such sales in like manner as Colorado Springs persons collect and remit the sales tax.

The sales tax and use tax complement each other in the City revenue plan, and together provide a uniform tax of two and one-half percent (2½ %) upon either the sale, purchase, use, storage, distribution or consumption of all tangible personal property and specific taxable services purchased, leased or rented at retail, as herein defined. (Ord. 76-168; Ord. 84-27; 1968 Code, § 3-73)

7-2-104: WORDS AND PHRASES

DEFINED:¹When not clearly otherwise indicated by the context, the following terms, words and phrases as used in this Article, shall have the following meanings:

ADJUSTED GROSS SALES AND SERVICES: Gross sales and services with the addition of:

- A. Cost of goods purchased tax free by taxpayer and taken from his stock and used or consumed by him personally or used by him in the rendering of a service;
- B. Collection, during the current taxable period, of bad debts that had, during a previous taxable period, been deducted from adjusted gross sales and services.

ALTERNATIVE RATE OF TAX: That rate of tax as specified in Section 7-2-443 of this Article. (Ord. 85-213)

AUCTION SALE: Any sale conducted or transacted at a place of business operated by an auctioneer or a sale conducted or transacted at any location where tangible personal property is sold by an auctioneer when such auctioneer is acting either as agent for the owner of such tangible personal property or is, in fact, the owner thereof. For any purpose of this Article, the auctioneer at any sale, as defined herein, except when acting as an agent for a duly licensed retailer or vendor licensed to sell the commodities or articles under auction, or when selling only tangible personal property which is exempt from retail sales or use tax, is a retailer or vendor, and the business conducted by him in accomplishing such sale is the transaction of a business as defined.

AUTOMOTIVE VEHICLE: Any vehicle, including every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or for flight in the air and upon which a specific ownership tax is imposed by the State of Colorado, including but not limited to, motor vehicles, trailers, or semi-trailers and aircraft; but excepting devices moved by human power or used exclusively upon stationary rails or tracks.

BUSINESS: Includes all activities or undertakings of any nature engaged in, or caused to be engaged in, by any person with the object of gain, benefit or advantage, direct or indirect.

CALENDAR YEAR: A year commencing on January 1 through December 31 of the same year. (Ord. 85-213)

CHECK: A written, unconditional order to pay a sum certain in money, drawn on a bank, payable on demand, and signed by the drawer "Check" for the purposes of this Article only, also includes a negotiable order of withdrawal or a share draft.

CONSUMPTION: The act or process of consuming; it includes waste, destruction, or use. Consumption is the normal use of property for the purpose for which it was intended. (Ord. 80-106; Ord. 81-251; 1968 Code §7-73)

DEFICIENCY NOTICE: Where used in this Article, deficiency notice includes a written notice of determination, assessment, and demand for payment and includes a jeopardy assessment. (Ord. 85-274)

DIRECTOR OF FINANCE; DIRECTOR: The Director of Finance of the City, or his authorized representatives. (Ord. 76-168; Ord. 81-251; Ord. 86-23; 1968 Code § 3-73)

DISHONOR OR DISHONORED: A check is dishonored when the drawee of that instrument refuses payment thereon on the basis that the drawer has insufficient funds on deposit with the drawee, or for any other reason whatsoever other than an error by the drawee.

DISTRIBUTION: The act of distributing any article of tangible personal property purchased at retail for use or consumption which may include, but shall not be limited to, the distribution of advertising gifts, shoppers guides, catalogues, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

DRAWEE: The bank upon which a check is drawn or a bank, savings and loan association, industrial bank, or credit union on which a negotiable order of withdrawal or a share draft is drawn.

1. For definitions of general application, see also Section 1-1-203 of this Code.

DRAWER: A person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature be that of himself or of a person authorized to draw the check on himself.

ENGAGED IN BUSINESS IN THE CITY: The selling, leasing, renting or delivering in the City or any activity in the City in connection with the selling, leasing, renting or delivering in the City of tangible personal property or taxable services by a retail sale for purchase, use, storage, distribution or consumption within the City. This term shall include, but shall not be limited to the following acts or methods of transacting business:

- A. The maintaining within the City, directly or indirectly, or by a subsidiary, an office, distributing house, sales room or house, warehouse or other place of business.
- B. The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio or television advertising media, or by any other means whatsoever, of business from persons residing in the City, and by reason thereof receiving orders for or purchasing, leasing or renting tangible personal property, or taxable services from such persons residing in the City or selling, leasing or renting for use, consumption, distribution or storage in the City; and, the tangible personal property or taxable services so ordered, purchased or leased actually have come to rest for any length of time in the City and have become a part of the mass of property of the City as a result thereof. (Ord. 80-106; Ord. 81-251; 1968 Code §7-73)

EXCESS TAX: That amount of tax collected during a reporting period that is in excess of two and one-half percent (2½%) of City net taxable sales and services, and which excessive collection must be remitted to the City using the method prescribed herein. (Ord. 80-106; Ord. 81-251; Ord. 84-27; 1968 Code § 7-73)

EXEMPTIONS: Those deductions from adjusted gross sales and services in order to arrive at a taxable base, which exemptions may include exempt transactions (in whole or in part), sale or purchase of exempt commodities, articles or services, or sale to exempt

persons who may either be exempt on their direct purchase or exempt on the type of commodity, articles or services purchased, all as set forth in Section 7-2-401 herein.

FOOD: Food which is advertised or marketed for human consumption and is sold in the same form, condition, quantities and packaging as is commonly sold by grocers. The term includes cereals and cereal products; milk and milk products; meats and meat products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruits and fruit products, sugars, sugar products and sugar substitutes; coffees and coffee substitutes; teas, cocoa and cocoa products; vitamins and other dietary supplements; spices, condiments, salt and oleomargarine. The term does not include food or drink served or furnished as described in Section 7-2-306 of this Article; chewing gum, spirituous, malt or vinous liquors; cocktail mixes; proprietary medicines; nostrums; lozenges; tonics; water, mineral water and carbonated water marketed in containers; ice; pet foods; food or drink furnished, prepared or served for consumption at tables, chairs or counters, or from trays, glasses, dishes or other tableware provided by the retailer; prepared food or drink sold by retailers who regularly sell for consumption on or near the premises of the retailer even though such food or drink is sold on a "take out" or "to go" order and is bagged, packaged or wrapped and taken from the premises of the retailer. (Ord. 80-106; Ord. 81-251; 1968 Code § 7-73)

GARAGE SALES: The sale or offering for sale of articles of tangible personal property by the owner, lessee or other occupant of a dwelling. The term garage sale shall include a patio sale, yard sale or any similar sale. (Ord. 80-123; Ord. 83-187; 1968 Code § 3-73)

GROSS SALES AND SERVICE OR GROSS TAXABLE SALES: The total amount received in money, credits, property or other consideration valued in money from sales, leases, rentals and purchases at retail, subject to the tax herein imposed.

INSUFFICIENT FUNDS: A drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account, or share draft account with the drawee or has funds in such an account with the drawee in an amount less than the amount of the

check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "No Account" shall also be deemed to be dishonored for "Insufficient Funds".

ISSUE: A person issues a check when he makes, draws, delivers, or passes it or causes it to be made, drawn, delivered, or passed. The foregoing shall not include a subsequent endorser of such check, unless such endorser has actual knowledge of the fact that the drawer has insufficient funds to allow payment of that check by the drawee.

NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNT: An account in a bank, savings and loan association, or industrial bank.

NEGOTIABLE ORDER OF WITHDRAWAL OR SHARE DRAFT: Negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

NET TAXABLE SALES AND SERVICES: The adjusted gross sales and services less authorized "exemptions" therefrom. (Ord. 76-168; Ord. 81-251; 1968 Code, § 3-73)

ORTHOPEDIC APPLIANCE: Any appliance or device designed specifically for use in the correction or prevention of deformities, defects or chronic diseases of the skeleton, joints or spine. (Ord. 82-153)

PERSON: Includes any individual, firm, copartnership, joint venture, corporation, society, club, association, joint stock company, estate or trust, receiver, trustee, assignee, lessee, or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit, including the United States of America, the State of Colorado, and any political subdivision thereof; and the plural as well as the singular number. (Ord. 76-168; Ord. 81-251; 1968 Code, § 3-73)

PROSTHETIC DEVICE: Any item:

- A. Which is artificial and replaces a missing part of the body, or

- B. Which performs the function of a vital organ or appendage of the body, or
- C. Which is permanently implanted in the body. (Ord. 82-153)

PURCHASE or SALE: The acquisition for a price by any person of tangible personal property or taxable services which are purchased, sold, used, stored, distributed or consumed. A transaction shall be deemed to be a purchase or sale if the acquisition of tangible personal property or service was effected by:

- A. The transfer, either conditionally or absolutely, of title or possession, or both, of the tangible personal property; or
- B. A lease, rental or grant of a license to use (including royalty agreements), store, distribute or consume the tangible personal property; or
- C. The right to continuous possession or use of tangible personal property is granted under a lease or contract.

The terms "sale" or "purchase" or "sale and purchase" mean and include installment and credit sales, the exchange of property, as well as the sale thereof for money, and every such transaction, conditional or otherwise, for a consideration constituting a sale although title is reserved for security of payment or delivery is deferred or made outside the corporate limits of the City; and also including all taxable transactions as set forth in Section 7-2-301 of this Article.

PURCHASE PRICE or SALE PRICE: The price to the consumer or more specifically the aggregate value in money of anything or things paid or delivered or promised to be paid or delivered by a lessee or any purchaser to a retailer or any person in the consummation of a lease or of a retail sale as defined herein, without any deduction therefrom on account of the cost of the property sold, cost of materials used, labor or service cost, or any other expense whatsoever, and provided that when articles of tangible personal property are sold after manufacture or after having been made to order, the gross value of all materials, labor service and profit thereon shall be included in the said purchase price. The purchase

be included in the said purchase price. The purchase price shall also include all charges such as transportation, handling and installation charges that are included in the delivered price before the title to the property passes. However, the "purchase price" or "sale price" shall not include any direct tax imposed by the Federal government or by the State of Colorado, or by this Code.

PURCHASER or CONSUMER: Any person to whom taxable service has been rendered or who shall have leased, rented or purchased at retail, taxable services or tangible personal property which is purchased, delivered, used, stored, distributed or consumed in the City upon which a tax is imposed hereby.

RESIDENT: For the purposes of the taxation provisions herein, a person who resides or maintains his domicile within the City or who maintains one or more places of business within the City at the time of a taxable transaction as defined herein. A person may have dual residency, or other places of residence or domicile, or place of business outside the City prior to, during or after the occurrence of the taxable transaction and be a resident.

RETAILER or VENDOR: Any person selling, leasing or renting to the consumer or purchaser, or a person doing a retail business known to the trade and public as such, making sales to a purchaser, or leasing or renting to a purchaser or consumer at retail and not for resale, in the City or elsewhere, of tangible personal property or services subject to the tax imposed by this Article or for use, storage, distribution or consumption within the City. To prevent evasion and to provide for more efficient administration, the terms "retailer" or "vendor" shall be extended to include any salesman, representative, peddler or canvasser who as an agent, directly or indirectly, of the dealer, distributor, supervisor or employer under whom he operates or from whom he obtains the tangible personal property or services subject to the tax imposed herein; and in such event the agent shall be responsible for the collection and payment of the tax whenever the principal of such agent refuses to become licensed as a vendor hereunder.

RETAIL SALE or PURCHASED AT RETAIL: Any sale, purchase, lease, rental or grant of license to use tangible personal property, or taxable services within

the City except a wholesale sale or purchase for taxable resale. (Ord. 76-168; Ord. 81-251; 1968 Code, § 3-73)

SCHOOL: An educational institution having a curriculum comparable to a grade, grammar, junior high, high school or college, or any combination thereof, requiring daily attendance, having an enrollment of at least forty (40) students, and charging a tuition fee. (Ord. 79-179; 1968 Code, § 3-73)

SHARE DRAFT ACCOUNT: An account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, or industrial bank or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

SPECIAL ACCOUNTING BASIS or ESTIMATED PERCENTAGE BASIS: The permission to pay or satisfy in full City sales or use tax liability on a percentage of gross sales or gross purchases, and which is granted to facilitate tax reporting to qualified consumers or vendors upon petition to the Director of Finance, or his agent, on the basis prescribed in Section 7-2-805 and elsewhere herein.

STORAGE: Any keeping or retention of, or exercise of dominion or control over, or possession, for any length of time, of tangible personal property when leased, rented or purchased at retail from sources either within or without the City from any person or vendor.

TANGIBLE PERSONAL PROPERTY or PERSONAL PROPERTY: Corporeal personal property, including but not limited to automotive vehicles as herein defined, which may be seen, weighed, measured or felt or touched, or is in any manner perceptible to the senses and for the purposes of the sales and use tax and where referred to throughout this Article shall also mean and does include the specific services set out as taxable in Part 3 of this Article.

TAX: Either the tax payable by the purchaser of a commodity or service subject to tax or the aggregate

amount of taxes due from the vendor of such commodities or services during the period of which he is required to report his collections, as the context may require.

TAXPAYER: Any person obligated to account to the Director of Finance for taxes collected or from whom a tax is due, or against whom a deficiency is being asserted, and shall include retailer, vendor, consumer, purchaser, or any other person. If the taxpayer fails to collect tax or is not licensed to collect the taxes under the terms of this Article, the obligation for the payment of the tax is upon the consumer whether the tax is called a "sales" or "use" tax. (Ord. 76-168; Ord. 81-251; 1968 Code § 3-73)

THERAPEUTIC APPLIANCE OR DEVICE: Any item designed to correct or treat a physical disability or surgically created abnormality. (Ord. 82-153)

USE: The exercise, for any length of time, by any person within the City of any right, power or dominion over tangible personal property or any transaction whereby tangible personal property together with the services of an operator thereof is furnished for another person, irrespective of the fact that during all times that the said property is so furnished the control of the operation of the same remains in the person so providing the said property.

VENDOR'S FEE or RETAINAGE: The percent of total City sales and use tax collected which is authorized to be retained by the licensed vendor to recompense him for his expense of collecting and remitting the City sales tax on his sales to the various purchasers or consumers. Consumers filing a City use tax report are not entitled to the vendor's fee.

WHOLESALE SALE or WHOLESALE PURCHASE or SALES FOR TAXABLE RESALE: A sale by wholesalers or retailers to retail merchants, jobbers, dealers, vendors or other wholesalers for taxable resale. It does not include a sale by a wholesaler or retailer to users, consumers, purchasers or customers not for taxable resale, which sales shall be deemed retail sales and subject to the provisions of this Article.

WHOLESALE: A person doing a regularly recognized wholesale or jobbing business, and known to the public and trade as such, or a retailer on an occasional basis, either of whom sell to retail merchants, jobbers, dealers, or other wholesalers for

the purpose of taxable resale, and not for the storage, use, consumption or distribution of the purchaser. (Ord. 76-168; Ord. 81-251; 1968 Code § 3-73)

7-2-105: **TRUST STATUS OF TAX:**

- A. City Property in Trust. All sums of money paid by the purchaser to the retailer as taxes imposed by this Article shall be and remain public money and the property of the City in the hands of such retailer. Such retailer shall hold the same in trust for the sole use and benefit of the City until paid to the Director of Finance as herein provided. It shall be unlawful for any retailer to fail or refuse to pay to the Director of Finance all such sums.
- B. Segregated Account. If a licensee is suffering financial difficulty, or is delinquent in making payment of sales tax collected, or is apparently using tax money collected for his own purposes, the Director, in his discretion, may require the trust funds to be kept segregated in a special account at a bank or other financial institution. Withdrawals from said account shall only be payable to the Director of Finance and the Director of Finance shall be authorized to make withdrawals from said account. Where said account is not kept as required herein, all of the property of the taxpayer shall be considered as trust property of the City. (Ord. 76-168; 1968 Code § 3-108)

7-2-106: **STATUTE OF LIMITATIONS:**

- A. Assessments, Collections and Liens. The taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Article shall not be assessed nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, and notice of lien with respect to which has been filed prior to the expiration of such period, in which case such lien shall continue only for one year after the filing of notice thereof.

- B. False and Fraudulent Returns. In the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties thereon, may be assessed, or proceedings for the collection of such tax may be begun at any time.
- C. Extensions. Before the expiration of such period of limitation, the taxpayer and the Director of Finance may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.
- D. Failure to File a Return. In the case of failure to file a return, the tax, with interest and penalties thereon, may be assessed and collected at any time. (Ord. 85-274)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 2 TAX RATE

SECTION:

- 7-2-201: Imposition of Tax
 7-2-202: Rate of Tax
 7-2-203: Tax Bracket Schedule

7-2-201: IMPOSITION OF TAX: There is hereby levied and there shall be collected and paid a tax on the purchase price paid or charged for tangible personal property when purchased or sold at retail by every person exercising the taxable privilege, as defined in Section 7-2-104 herein, by the sale, lease, rental, purchase, use, storage, distribution or consumption of tangible personal property. (Ord. 78-45; 1968 Code § 3-72)

7-2-202: RATE OF TAX: The amount of the tax hereby levied is two and one-half percent (2½ %) of the purchase price, as herein defined, of such tangible personal property and taxable services sold or purchased at retail. (Ord. 78-45; Ord. 84-27; 1968 Code § 3-72)

7-2-203: TAX BRACKET SCHEDULE: Notwithstanding the rate of tax imposed by Section 7-2-202 of this Article and in order to avoid fractions of pennies, the following brackets or percentage calculation method shall be applicable to all taxable transactions:

- | | |
|--|---|
| <p>A. Sales of \$0.01 to
and including \$0.19</p> <p>Sales of \$0.20 to
and including \$0.59</p> <p>Sales of \$0.60 to
and including \$0.99</p> <p>Sales in excess of
\$0.99</p> | <p>No tax</p> <p>1¢</p> <p>2¢</p> <p>2½¢ on each full
\$1.00 of the sale price
plus the tax shown on
the above schedule for
the applicable
fractional part of a
dollar of each such
sale price subject to
calculation as provided
in subsection C of this
Section</p> |
|--|---|

- B. In the event a sale requires the collection of tax imposed by this Article as well as sales or use tax imposed by the State of Colorado pursuant to Article 26 of Title 39, C.R.S. 1973 the sales or use tax may be computed by use of a five and one-half percent (5½ %) sales bracket schedule issued by the State of Colorado, Department of Revenue pursuant to C.R.S. 1973 § 39-26-106, which shall be deemed to properly compute and include the two and one-half percent (2½ %) tax imposed by this Article on all purchase prices to which this schedule applies. On all purchase prices not set forth in this schedule, tax shall be calculated as otherwise provided in Section 7-2-203A of this Article.
- C. In the event the percentage calculation method is used by the vendor, the tax shall be calculated to the nearest penny with all fractions of one cent (\$.01) of fifty percent (50%) or greater being raised to the next whole penny, and all calculated fractions of a lesser amount than fifty percent (50%) being rounded to the next lesser penny amount. (Ord. 78-45; Ord. 83-80; Ord. 84-27; Ord. 84-168; 1968 Code § 3-72)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 3 TAXABLE TRANSACTIONS, COMMODITIES AND SERVICES

SECTION:

- 7-2-301: Levy of Tax in General
- 7-2-302: Automotive Vehicles
- 7-2-303: Bad Debts Collection
- 7-2-304: Cost of Goods Used
- 7-2-305: Exchanged Property
- 7-2-306: Food and Drink
- 7-2-307: Gas and Electric Services
- 7-2-308: Manufactured Articles
- 7-2-309: Pay, Cable and Subscription
Television Service
- 7-2-310: Personal Property Rentals
- 7-2-311: Rooms and Accommodations Services
- 7-2-312: Sales Made Outside City
- 7-2-313: Tangible Personal Property
- 7-2-314: Telephone and Telegraph Services
- 7-2-315: Vending Machines, Amusement Devices
- 7-2-316: Wholesalers, Retail Sales

7-2-301: LEVY OF TAX IN GENERAL: It shall be unlawful for any seller to fail to collect or any purchaser to fail to pay a tax levied by this Article, including sales on which exemption is disputed, and there is hereby levied and there shall be collected and paid, a tax, as stated in Section 7-2-203, by every person exercising the taxable privilege, defined in Section 7-2-104 hereof, as set forth in this Part 3. (Ord. 76-168; 1968 Code § 3-74)

7-2-302: AUTOMOTIVE VEHICLES: The sales or use tax is imposed on the purchase price paid or charged on the sale or the purchase for use or storage of an automotive vehicle. (Ord. 76-168; 1968 Code § 3-74)

7-2-303: BAD DEBTS COLLECTION: The sales or use tax is imposed on the amount of collection, during the current taxable period, of bad debts that had, during a previous taxable period, been deducted. (Ord. 76-168; 1968 Code § 3-74)

7-2-304: COST OF GOODS USED: The sales or use tax is imposed on the cost of goods or tangible personal property purchased without payment of the City sales tax and used, stored, distributed or consumed either personally or in conjunction with the rendering of services. (Ord. 76-168; 1968 Code § 3-74)

7-2-305: EXCHANGED PROPERTY: In the case of retail sales involving the exchange of property, the sales or use tax is imposed on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange. (Ord. 76-168; 1968 Code § 3-74)

7-2-306: FOOD AND DRINK: The sales or use tax is imposed upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drug stores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carry out shops and other like places of business at which prepared food or drink is regularly sold, including sales from pushcarts, motor vehicles and other mobile facilities. Cover charges shall be included as a part of the amount paid for such food and drink. (Ord. 80-106; 1968 Code § 3-74)

7-2-307: GAS AND ELECTRIC SERVICES: The sales or use tax is imposed upon the amount charged for gas and electric services whether furnished by municipal, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic or commercial consumption and not for resale. (Ord. 76-168; 1968 Code § 3-74)

7-2-308: MANUFACTURED ARTICLES: The sales or use tax is imposed on the full purchase price of articles sold after manufacture or after having been made to order and includes the full purchase price of materials used and services

performed in connection therewith, excluding, however, such articles as are otherwise exempted under this Article. (Ord. 76-168; 1968 Code § 3-74)

7-2-309: PAY, CABLE AND SUBSCRIPTION TELEVISION SERVICE: The sales or use tax is imposed on the purchase price paid or charged for pay, cable, or subscription television services sold, purchased, leased, rented, furnished or used.¹ (Ord. 76-168; 1968 Code § 3-74)

7-2-310: PERSONAL PROPERTY RENTALS: The sales or use tax is imposed on the purchase price paid or charged or for any consideration for the furnishing of tangible personal property, together with the services of an operator thereof, for any person, shall be taxable hereunder as a rental of such personal property, irrespective of the fact that during all times that the said property is so furnished, the control of the operation of the same remains in the person so providing the said property. (Ord. 76-168; 1968 Code § 3-74)

7-2-311: ROOMS AND ACCOMMODATIONS SERVICES: The sales or use tax is imposed on the entire price paid or charged on the transaction of furnishing rooms or other accommodations to any person who for a consideration uses, possesses or has the right to use or possess, any room or rooms in any hotel, apartment hotel, guest house, guest ranch, motel, mobile home, auto camp, trailer court or park, under any concession, permit right or access, license to use or other agreement, or otherwise. (Ord. 76-168; 1968 Code § 3-74)

7-2-312: SALES MADE OUTSIDE CITY: Every retailer required or permitted to collect the tax shall collect the tax imposed by this Article notwithstanding the following:

- A. Solicitation by Retailer. The purchaser's order or the contract sale is delivered, mailed or otherwise transmitted by the purchaser to the retailer at a point outside of the City as a result of solicitation by the retailer through the medium of a catalog or other written advertisement or by any other means; or

- B. Closing Contract Outside City. The purchaser's order or contract of sale is made or closed by acceptance or approval outside the City or before said tangible personal property enters the City; or

- C. Procurement or Manufacture Outside City. The purchaser's order or contract of sale provides that said property shall be, or it is in fact procured or manufactured at a point outside of the City and shipped directly to the purchaser from such point of origin; or

- D. Transportation Costs. Said property is mailed to the purchaser in the City from a point outside the City or delivered to a carrier, F.O.B., or otherwise, and directed to the vendor in the City regardless of whether the cost of transportation is paid by the retailer or by the purchaser; or

- E. Delivery Outside City. Said property is delivered directly to the purchaser at a point outside the City;

provided, however, that in subsections A through E above, the property is intended to be brought into the City for use, storage, or consumption in the City. (Ord. 76-168; 1968 Code § 3-74)

7-2-313: TANGIBLE PERSONAL PROPERTY: The sales or use tax is imposed on the purchase price paid or charged upon the sale, purchase, lease, rental or grant of license to use, or on the use, storage, distribution or consumption of tangible personal property purchased at retail as herein defined, and on the subsequent lease, rental or sale of tangible personal property by any person to every consumer or purchaser regardless that the person so purchasing and subsequently leasing, renting or selling that personal property paid the tax imposed herein on his initial purchase and use of the said property so acquired which is subsequently leased, rented or sold. (Ord. 76-168; 1968 Code, § 3-74)

7-2-314: TELEPHONE AND TELEGRAPH SERVICES: The sales or use tax is imposed upon the purchase price paid or charged for telephone and telegraph services, whether furnished

1. Ed. Note: The provisions of Section 7-2-309 shall not be effective until August 31, 1982.

by public or private corporations or enterprises, for all City local telephone receipts, including zone calls, and intrastate telephone and telegraph service receipts originating in the City. (Ord. 76-168; 1968 Code § 3-74)

7-2-315: VENDING MACHINES, AMUSEMENT DEVICES:

- A. A sales tax shall be collected and remitted by the vending machine operator or owner for the retail sale of tangible personal property.
- B. However, because of the difficulty in collecting the tax upon each retail sale, the tax shall be calculated upon the gross wholesale price of the items or articles of tangible personal property that are to be subsequently sold in the coin-operated vending machine or device. The sales tax may be included in the retail price of the individual item sold at retail through the machine.
- C. No sales or use tax is to be collected or paid by the vending machine operator or owner for sales of tangible personal property which include food items; that is, food items, such as but not limited to candies, cookies, sandwiches, soft drinks, hot or cold soups, prepackaged meals, which are sold through vending machines are exempt from sales or use tax.
- D. The operator, owner or person selling tangible personal property by coin-operated vending machines or devices shall be liable additionally for the sales tax, or if applicable, the use tax on the purchase or use of coin-operated devices and upon any subsequent lease, rental or sale thereof on the full lease, rental or sales price.
- E. The owner or operator of such machine shall not deduct any vendor's fee. (Ord. 76-168; 1968 Code § 3-74)

7-2-316: WHOLESALERS, RETAIL SALES: The sales or use tax is imposed on sales by wholesalers to purchasers, users or customers not for resale, shall be deemed retail sales and shall be subject to the provisions of this Article. Said sales shall not be included within the term wholesale sales. (Ord. 76-168; 1968 Code § 3-74)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 4 EXEMPT TRANSACTIONS, COMMODITIES AND PERSONS; DEDUCTIONS

SECTION:

- 7-2-401: Exemptions; Dispute Procedures
- 7-2-402: Automotive Vehicles
- 7-2-403: Bad Debts Charged Off
- 7-2-404: Charitable and Religious Organizations
- 7-2-405: Cigarettes
- 7-2-406: City Sales Tax Paid; Use Tax Exemption
- 7-2-407: Constitutional Prohibitions
- 7-2-408: Containers, Labels
- 7-2-409: Deliveries to Nonresident Outside City
- 7-2-410: Direct Taxes
- 7-2-411: Discounts and Allowances
- 7-2-412: Finance Charges
- 7-2-413: Feed, Seeds and Orchard Trees
- 7-2-414: Food
- 7-2-415: Garage Sales
- 7-2-416: Gasoline; Motor Fuel
- 7-2-417: Governments, Sales to
- 7-2-418: Interstate Commerce Sales; Shipments Out of State
- 7-2-419: Livestock
- 7-2-420: Livestock and Poultry Bedding
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- 7-2-422: Mobile Home
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- 7-2-424: Newspapers
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- 7-2-426: One Hundred Dollar Exemption; Use Tax Exemption
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- 7-2-433: Sales or Use Tax Paid to Another City; Use Tax Exemption
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- 7-2-441: Traded In or Exchanged Property
- 7-2-442: Wholesale Sales
- 7-2-443: Machinery or Equipment; Alternative Rate of Tax Exemption
- 7-2-444: Sales Tax — Nonapplicability
- 7-2-445: Use Tax — Proration as Applied to Certain Construction Equipment

7-2-401: EXEMPTIONS; DISPUTE PROCEDURES: It shall be unlawful for any seller to fail to collect, or any purchaser to fail to pay a tax levied by this Article on sales in which exemption is disputed.

The seller shall collect and the purchaser shall pay such tax even though a dispute arises between the purchaser and seller as to whether or not any such sale is exempt from taxation hereunder. The seller shall thereupon issue to the purchaser a receipt or certificate on forms prescribed by the Director of Finance showing the names of the seller and purchaser, the item purchased, the date, the price, the amount of tax paid, and a brief statement of the claim of exemption. The purchaser may thereafter apply to the Director of Finance for a refund of such taxes. It shall be the duty of the Director of Finance to determine the question of exemption, subject to review by the courts as hereinafter provided.

The purchase and sale of articles of tangible personal property not otherwise exempt are subject to the sales or use tax imposed herein as well as those specific services cited as taxable in Part 3 of this Article. The list of exempt commodities or articles cannot be increased by implication or similarity. In all cases the burden of proof is upon the taxpayer to establish that a sale is tax exempt.

The following sections indicate the exemptions from the imposition of the City use or sales taxes, or both, as the context sets forth. (Ord. 76-168; 1968 Code § 3-75)

7-2-402: AUTOMOTIVE VEHICLES: Automotive vehicles legally registered

outside the City are exempt hereunder. (Ord. 76-168; Ord. 81-251; 1968 Code § 3-75)

7-2-403: BAD DEBTS CHARGED OFF: Gross taxable sales which are represented by accounts not secured by conditional sales contract, rental purchase contract or security interest and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State of Colorado, may be deducted from adjusted gross sales; provided, however, that if such amounts are thereafter collected by the taxpayer, a tax shall be paid on the amount so collected. (Ord. 76-168; 1968 Code § 3-75)

7-2-404: CHARITABLE AND RELIGIOUS ORGANIZATIONS: The purchase price paid or charged on direct sales to and direct purchase by religious, charitable, and eleemosynary corporations, in the conduct of their religious, charitable, and eleemosynary functions and activities only, provided that a letter of exemption from the City is possessed by such organization; provided, however, that said organizations are required to collect sales tax when taxable sales are made by them. (Ord. 76-168; 1968 Code § 3-75)

7-2-405: CIGARETTES: The sale or purchase of cigarettes is exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-406: CITY SALES TAX PAID; USE TAX EXEMPTION: The use, storage, distribution or consumption in the City of tangible personal property upon the sale of which the City retail sales tax of two and one-half percent (2½ %) has been imposed, collected, and remitted is exempt from the levy of the City use tax. (Ord. 76-168; Ord. 84-27; 1968 Code § 3-75)

7-2-407: CONSTITUTIONAL PROHIBITIONS: All sales, uses and other transactions which the City is prohibited from taxing under the Constitution and laws of the United States, or under the Constitution of the State of Colorado are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-408: CONTAINERS, LABELS: The sales and purchases of tangible personal property for use as containers, labels and shipping cases by a person engaged in manufacturing or compounding for sale, profit or use, shall be deemed a wholesale sale when it meets all of the following conditions:

- A. Is used by the manufacturer or compounder to contain or label the finished product as manufactured or compounded;
- B. Is sold by the manufacturer or compounder along with and as a part of the finished product; and
- C. Is not returnable to the manufacturer for reuse. (Ord. 76-168; 1968 Code § 3-75)

7-2-409: DELIVERIES TO NONRESIDENT OUTSIDE CITY: The sale of tangible personal property shall be exempted from the operation of this Article if both the following conditions exist:

- A. The sale is to a person who resides or does business outside the City; and
- B. The article purchased is to be delivered to the purchaser outside the City by common, contract or commercial carrier who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided, however, that the article so purchased and so delivered is to be used, stored, distributed or consumed outside the City. (Ord. 76-168; 1968 Code § 3-75)

7-2-410: DIRECT TAXES: The City sales and use tax shall not apply to any direct tax imposed by this Code, or by the Federal government, or by the State of Colorado. (Ord. 76-168; 1968 Code § 3-75)

7-2-411: DISCOUNTS AND ALLOWANCES: Exempt from the tax imposed by this Article is the amount of the discount from the original selling price if such discount or decrease in purchase price and for corresponding decrease in tax

due is actually passed on to the consumer. Accordingly, adjustments in sales price such as allowable discounts, rebates and credits cannot be anticipated. The tax must be based upon the original price unless such adjustments have actually been made prior to the filing of the return wherein such sale is reported. However, if the price upon which the tax was computed and paid to the City by the vendor is subsequently readjusted prior to payment of the tax by the purchaser, a proper credit may be taken against the tax due on the next subsequent return.

Furthermore, a cash discount allowed for payment on or before a given date is not an allowable adjustment to the selling price in determining taxable sales. (Ord. 76-168; 1968 Code § 3-75)

7-2-412: FINANCE CHARGES: Charges imposed by the seller or by a third party, such as for interest, carrying charges and insurance on a conditional or installment sale, are exempt hereunder, except that when any such charges are not specifically identified but are included in the sales contract they shall be considered to be part of the purchase price. (Ord. 76-168; 1968 Code § 3-75)

7-2-413: FEED, SEEDS AND ORCHARD TREES: All sales and purchases of feed for livestock or poultry, all sales and purchases of seeds, and all sales and purchases of orchard trees are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-414: FOOD:

- A. All sales of food as food is defined in Section 7-2-104 of this Article are exempt hereunder.
- B. All meals provided to employees of restaurants, cafes, lunch counters, cafeterias, hotels, drug stores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carry out shops and other like places of business at which prepared food or drink is regularly sold including sales from pushcarts, motor vehicles and other mobile facilities at no charge or at reduced charge and which are considered as part of their salary, wages or income, are exempt hereunder. (Ord. 80-106; 1968 Code § 3-75)

7-2-415: GARAGE SALES: The purchase or sale of tangible personal property at a garage sale is exempt hereunder provided that:

- A. The exemption shall apply only to the first three hundred dollars (\$300.00) of tangible personal property at a garage sale during any calendar year, and
- B. Each garage sale is held no more than two (2) times per calendar year, and
- C. Each garage sale does not exceed a period of two (2) consecutive days, and
- D. The garage sale shall meet the requirements of Section 14-4-101C of this Code. (Ord. 80-123; Ord. 83-187; 1968 Code § 3-75)

7-2-416: GASOLINE; MOTOR FUEL: The purchase price paid or charged on commodities or motor fuel which has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933, C.R.S. 1973, Article II, Chapter 138 are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-417: GOVERNMENTS, SALES TO: The purchase price paid or charged on direct sales to and direct purchases by the United States government; the State of Colorado, its departments or institutions, and the political subdivisions thereof, in their governmental capacity only; and all such sales to or purchases by the City are exempt hereunder; providing, however, that no commercial, industrial or any other banking institution, organized or chartered by the United States government, or by the State of Colorado, shall be considered a governmental institution for the purpose of this exemption. (Ord. 76-168; 1968 Code § 3-75)

7-2-418: INTERSTATE COMMERCE SALES; SHIPMENTS OUT OF STATE: The sales of tangible personal property shall be exempted from the operation of this Article if both the following conditions exist:

- A. The sales are to those who reside or do business outside the State; and

- B. The articles purchased are to be delivered to the purchaser outside the State by common, contract or commercial carrier, who is employed to effect delivery by the seller, or by the conveyance of the seller, or by mail, provided, however, that the article so purchased and so delivered is to be used, stored, distributed or consumed outside the State. (Ord. 76-168; 1968 Code § 3-75)

7-2-419: LIVESTOCK: The sale or purchase of meat cattle, sheep, lambs, swine and goats and purchases of mares and stallions for breeding purposes are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-420: LIVESTOCK AND POULTRY BEDDING: All sales of and purchases of straw and other bedding for use in the care of livestock and poultry are exempt hereunder. (Ord. 80-106; 1968 Code § 3-75)

7-2-421: MANUFACTURED PRODUCTS; COMPONENT PARTS, INGREDIENTS: The purchase price paid or charged on the sales to and purchases of tangible personal property by a person engaged in manufacturing or compounding for use, profit or sale, shall be deemed a wholesale sale when it meets all of the following conditions:

- A. Is transformed in fact by the process of manufacture;
- B. Becomes by the manufacturing processes a necessary and recognized ingredient, component and constituent part of the finished product; and
- C. Its physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer. (Ord. 76-168; 1968 Code § 3-75)

7-2-422: MOBILE HOME: Any subsequent sale of a mobile home as such vehicle is defined in Section 42-1-102(82)(b) C.R.S. 1973, after such mobile home has once been subject to the payment of sales tax by virtue of Section 39-26-113, C.R.S. 1973, is exempt hereunder. (Ord. 80-106; 1968 Code § 3-75)

7-2-423: MOTION PICTURE THEATERS: Any motion picture theater subject to an admissions tax as provided in Article 7 of this Chapter is exempt from sales or use tax imposed upon the purchase or sale to the motion picture theater of films. Such exemption shall not extend to or include any other sales or use tax for which a motion picture theater is liable. (Ord. 79-223; 1968 Code § 3-75)

7-2-424: NEWSPAPERS: Newspapers as legally defined by the C.R.S. 1973 § 24-70-102, are not included within the term "tangible personal property". (Ord. 76-168; 1968 Code § 3-75)

7-2-425: NEWSPRINT, PRINTER'S INK: The sales to and purchases of newsprint and printer's ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales. (Ord. 76-168; 1968 Code § 3-75)

7-2-426: \$100 EXEMPTION; USE TAX EXEMPTION: Any appliance or article of household furniture, furnishings, wearing apparel or accessories purchased outside the City for personal use, storage, distribution or consumption within the City, the value of which is less than one hundred dollars (\$100.00) are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-427: POWER FOR MANUFACTURE: The sales to and purchases of electricity, gas, coal, fuel oil or coke by a person for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses, shall be deemed wholesale sales. (Ord. 76-168; 1968 Code § 3-75)

7-2-428: MEDICAL EXEMPTIONS: All sales of the following are exempt hereunder:

- A. Drugs dispensed in accordance with a prescription, or when furnished as a part of the professional services provided to the patient, whether for human or animal use or consumption,
- B. Insulin in all its forms dispensed pursuant to the direction of a licensed physician,

- C. Glucose usable for the treatment of insulin reactions,
- D. Urine and blood testing kits and materials for the personal use of an individual in the treatment of a diabetic condition,
- E. Insulin measuring and injecting devices including insulin syringes and hypodermic needles for the personal use of an individual, and
- F. Prosthetic devices, orthopedic appliances, therapeutic appliances or therapeutic devices, oxygen and related accessories, whether for human or animal use or consumption when sold in accordance with a written recommendation of a licensed practitioner or when furnished as a part of the professional services provided to the patient.
- G. All sales of wheelchairs and hospital beds for the personal use of an individual when sold in accordance with a written recommendation of a licensed practitioner and all sales of prescriptive eyeglasses, contact lenses or hearing aids. (Ord. 80-106; Ord. 81-266; Ord. 82-153; 1968 Code § 3-75)

7-2-429: USE MORE THAN THREE YEARS AFTER PURCHASE; USE TAX EXEMPTION: For transactions consummated on or after January 1, 1986, the City use tax shall not be imposed with respect to the use or consumption of tangible personal property within the City which occurs more than three (3) years after the most recent sale of the property if, within the three (3) years following such sale, the property has been significantly used within the State or significantly used outside of the State for the principal purpose for which it was purchased. (Ord. 85-274)

7-2-430: PUBLIC UTILITIES: Sales of tangible personal property to a public utility doing business both within and without the City, for use in its said business operations outside of the City, even though delivery thereof is made within the City are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-431: RETURNED GOODS: The amount equal to the sale price of property returned by the purchaser when the full sale price including the tax levied is refunded, either in cash or by credit are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-432: ROOM RENTALS BY THE MONTH: The sales and purchases of commodities and services under the provisions of Section 7-2-311 of this Article to any occupant who is a permanent resident of any hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, mobile home, auto camp, trailer court or park, or any other place and who enters into or has entered into a written agreement for occupancy of a room or rooms or accommodations for a period of at least thirty (30) consecutive days during the calendar year or preceding year are exempt hereunder. The exemption shall not apply to the sale or sales of any goods, services or commodities other than the furnishing of rooms and accommodations, unless such goods, services or commodities are otherwise exempt from the tax as provided herein. (Ord. 76-168; 1968 Code § 3-75)

7-2-433: SALES OR USE TAX PAID TO ANOTHER CITY; USE TAX EXEMPTION: The use, storage, distribution or consumption in the City of tangible personal property and upon the sale or use of which a retail sales or use tax at a rate equal to or greater than two and one-half percent (2½ %) has been previously imposed, collected and remitted to a municipal corporation organized and existing under the authority of the Constitution or statutes of the State of Colorado is exempt from the levy of the City Sales or Use Tax. If the rate of retail sales tax or use tax paid to such Colorado municipal corporation is less than two and one-half percent (2½ %), the net difference between the tax due under this Article and the tax paid to such other municipal corporation shall be paid to the City. In no instance shall the City tax credit exceed two and one half percent (2½ %). This exemption shall be denied if the tax paid to another Colorado municipal corporation was not legally due under the laws of such municipal corporation. This exemption shall be denied for subsequent transactions within the City including but not limited to rentals and leases. (Ord. 85-274)

7-2-434: SALES OR USE TAX PAID TO ANOTHER STATE; USE TAX EXEMPTION:

The use, storage, distribution or consumption in the City of tangible personal property and upon the sale or use of which any other state or any other state in combination with any political subdivisions thereof has previously imposed and collected a retail sales or use tax at a rate equal to or greater than five and one-half percent (5½ %) is exempt from the levy of the City sales or use tax. If the rate of retail sales or use tax paid to such other state and/or its political subdivisions is three percent (3%) or less, than the full two and one-half percent (2½ %) City sales or use tax is due. If the rate of retail sales or use tax paid the other state and/or its political subdivisions is more than three percent (3%) but less than five and one-half percent (5½ %), then the City's sales or use tax will be due on the net difference between the tax paid in excess of three percent (3%) and the combined City and State of Colorado tax rate of five and one-half percent (5½ %). In no instance shall the City tax credit exceed two and one-half percent (2½ %).

This exemption shall be denied if a tax paid another state and/or its subdivisions was not legally due under the laws of such other state and/or its subdivisions. This exemption shall also be denied for subsequent transactions within the City including but not limited to rentals and leases. (Ord. 85-274)

7-2-435: SCHOOL SPONSORED PERSON: Sales by a person sponsored by either a public school or a school as defined in Section 7-2-104 of this Article provided that this exemption shall include only one hundred fifty dollars (\$150.00) of sales by such person for each of the following quarters of the calendar year: January through March, April through June, July through September and October through December, and;

- A. The funds derived from such sales are either deposited in a school account or are otherwise accounted for through the school administration, and;
- B. The proceeds from such sale are used for the benefit of the school or the person sponsored by the school, and;
- C. Such person is a student enrolled in the school or is an organization primarily composed of

- C) students enrolled in the school, are exempt hereunder. (Ord. 80-105; 1968 Code § 3-75)

7-2-436: SCHOOLS: The purchase price paid or charged on direct sales to and direct purchases by a school other than a school held or conducted for private or corporate profit in the conduct of its educational functions and activities only are exempt hereunder, provided that a letter of exemption from the City is possessed by such school; however, such school is required to collect sales tax when taxable sales are made by it. (Ord. 79-179; 1968 Code § 3-75)

7-2-437: SERVICE SALES: The amount equal to the consideration received for labor or services sold, if the consideration for such services are separately stated from the consideration received for the tangible personal property in the retail sale, or that proportionate percentage approved by the Director of Finance of the City on combined sales of services and tangible personal property, that is deductible as the service or labor portion of that total sale, or the total amount paid on the sale or purchase of exclusively nontaxable services are exempt hereunder. (Ord. 76-168; 1968 Code § 3-75)

7-2-438: SPECIAL FUEL: The sale of special fuel, as defined in Section 39-27-201(8) C.R.S. 1973, as amended, used for the operation of farm vehicles when such vehicles are being used on farms and ranches, is exempt hereunder. (Ord. 80-106; 1968 Code § 3-75)

7-2-439: STORAGE OF CERTAIN PROPERTY: Tangible personal property purchased from a nonresident retailer by resident common carrier, resident public utility, or resident construction company, or construction and building materials purchased from a nonresident retailer by any person, which tangible personal property or construction and building materials are stored in the City, but not used or consumed in the City, are exempt from use tax. (Ord. 85-274)

7-2-440: TEMPORARY RESIDENT; USE TAX EXEMPTION: Tangible personal

property brought into the City by a nonresident thereof for his own use, storage, distribution or consumption while temporarily within this City is exempt from use tax. (Ord. 76-168; 1968 Code § 3-75)

7-2-441: TRADED IN OR EXCHANGED PROPERTY:

The fair market value of property traded in or exchanged at the time and place of the exchange is excluded from "gross taxable sales" if said exchanged property is to be resold thereafter in the usual course of the retailer's business. (Ord. 76-168; Ord. 81-251; 1968 Code § 3-75)

7-2-442: WHOLESALE SALES: The sale by wholesalers or retailers to a licensed retailer, jobber, dealer or other wholesaler for purposes of taxable resale, and not for the retailer's, jobber's, dealer's or wholesaler's own consumption, use, storage or distribution, shall be deemed to be wholesale sales and exempt from taxation. (Ord. 76-168; 1968 Code § 3-75)

7-2-443: MACHINERY OR EQUIPMENT; ALTERNATIVE RATE OF TAX EXEMPTION:

Purchases of machinery by a person engaged in manufacturing to be used in the City directly and exclusively by such person in the manufacture of tangible personal property, for sale or profit, are exempt from taxation under this Article in accordance with the alternative rate of tax hereinafter set forth. In addition, purchases of equipment by a person engaged in manufacturing to be used in the City directly and exclusively by such person in the manufacture of tangible personal property, for sale or profit, are exempt from taxation under this Article in accordance with the alternative rate of tax hereinafter set forth. Such alternative rate of tax shall be computed upon the total cumulative calendar year purchases based upon the purchase price paid by the taxpayer for such machinery used in manufacturing and equipment used in manufacturing and qualifying for this exemption as follows:

A. Purchases of One Cent (\$0.01) to and including four million nine hundred ninety nine thousand, nine hundred ninety nine dollars and ninety nine cents (\$4,999,999.99)	Rate of Tax 2½ % (two and one-half percent)
Purchases of five million dollars (\$5,000,000.00) to and including seven and one-half million dollars (\$7,500,000.00)	Rate of Tax 2% (two percent)

- | | |
|---|--|
| A) Purchases of seven and one-half million dollars and one cent (\$7,500,000.01) to and including ten million dollars (\$10,000,000.00) | Rate of Tax
1.5% (one and one-half percent) |
| Purchases of ten million dollars and one cent (\$10,000,000.01) to and including fifteen million dollars (\$15,000,000.00) | Rate of Tax
1% (one percent) |
| Purchases of fifteen million dollars and one cent (\$15,000,000.01) to and including twenty million dollars (\$20,000,000.00) | Rate of Tax
.5% (one-half of 1% percent) |
| Purchases in excess of twenty million dollars (\$20,000,000.00) | Rate of Tax
No tax |
- B. Notwithstanding this alternative rate of tax exemption, a retailer or vendor licensed for the collection of tax under the provisions of this Article, shall collect and remit to the City the amount of tax at the rate of two and one-half percent (2½ %) as provided in Section 7-2-202 and Section 7-2-203 of this Article from a taxpayer who qualifies under the provisions of this Section. The taxpayer shall not be entitled to the exemption upon purchase but shall claim the exemption only as provided in subsections C and D of this Section.
- C. A taxpayer qualifying for an alternative rate of tax exemption as provided in this Section shall be entitled to refund or credit, as provided in Section 7-2-810 of this Article.
- D. A taxpayer qualifying for an alternative rate of tax under this Section may reduce the amount of tax remitted as provided in Section 7-2-811 of this Article.
- E. As used in this Section, 7-2-443, "manufacturing" means the operation of producing, in an industrial use, an item of tangible personal property different from and having a distinctive name, character, or use from raw or prepared materials and which raw or prepared materials qualify for the exemption as set forth in Section 7-2-421 of this Article.
- F. To qualify for the exemption provided in Section 7-2-443, a purchase must also qualify for the investment tax credit against federal income tax provided by Section 38 of the "Internal Revenue Code of 1954" as amended. (Ord. 85-213)

7-2-444: SALES TAX — NONAPPLICABILITY:

For transactions consummated on and after January 1, 1986, the City's sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the City evidencing that a local use tax has been paid or is required to be paid. (Ord. 85-274)

7-2-445: USE TAX — PRORATION AS APPLIED TO CERTAIN CONSTRUCTION EQUIPMENT:

- A. Construction equipment which is located within the boundaries of the City for a period of more than thirty (30) consecutive days shall be subjected to the full applicable use tax of the City.
- B. With respect to transactions consummated on or after January 1, 1986, construction equipment which is located within the boundaries of the City for a period of thirty (30) consecutive days or less shall be subjected to the City's use tax in an amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator of which is twelve, and the result shall be multiplied by two and one-half percent (2½ %).
- C. Where the provisions of subsection B of this Section are utilized, the credit provisions of Section 7-2-433 of this Code shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule municipalities on any such equipment equal two and one-half percent (2½ %).
- D. In order to avail himself of the provisions of subsection B of this Section, the taxpayer shall comply with the following procedure:
 1. Prior to or on the date the equipment is located within the boundaries of the City, the taxpayer shall file with the City's Director of Finance an equipment declaration on a form provided by the City. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed
- D) from the boundaries of the City, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment, and shall include such other information as reasonably deemed necessary by the City.
2. The taxpayer shall file with the City an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety (90) days after the equipment is brought into the boundaries of the City or, for equipment which is brought into the boundaries of the City for a project of less than ninety (90) days duration, no later than ten (10) days after substantial completion of the project.
3. The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars (\$2,500.00).
- E. If the equipment declaration is given as provided in subsection D of this Section, then as to any item of construction equipment for which the customary purchase price is under two thousand five hundred dollars (\$2,500.00), which was brought into the boundaries of the City temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as two and one-half percent (2½ %) and that such local sales or use tax was previously paid. In such case the burden of proof in any proceeding before the City Director of Finance or the District Court, shall be on the City to prove such local sales or use tax was not paid.
- F. If the taxpayer fails to comply with the provisions of subsection D of this Section, the taxpayer may not avail himself of the provisions of subsection B of this Section and shall be subject to the provisions of subsection A of this Section. However, substantial compliance with the provisions of subsection D of this Section shall allow the taxpayer to avail himself of the provisions of subsection B of this Section. (Ord. 85-274)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 5 LICENSES

SECTION:

- 7-2-501: Licenses Required
 7-2-502: Application; Contents
 7-2-503: License Fees
 7-2-504: Form of License; Transfer
 7-2-505: Temporary License; Cash Bond
 7-2-506: Revocation of License; Appeal

7-2-501: LICENSES REQUIRED:

- A. Vendor. It shall be unlawful for any person to engage in the business of selling at retail, as the same is defined in this Article, tangible personal property and services subject to the tax imposed by this Article, without first having obtained a license therefor. Said license shall be granted and issued by the Director of Finance and shall be in force and effect until revoked.
- B. Retail Establishment. In case business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required; provided, however, that consolidated tax returns may be filed for those various locations as set forth in Section 7-2-803.
- C. Sale at Retail Without License. Any person engaged in business in the City, as defined in this Article, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Article.
- D. Sale or Transfer of Business Interest. Any sale, transfer or purchase of an interest in a business enterprise by any persons, where the respective interest of the person purchasing or selling as a result of the transaction has changed in any degree, requires, in the case of a retailer or other person required to be licensed under this Article, the issuance of a new license. In all cases where any of the assets of any business are within the City, the payment of the use tax

D) shall also be made on transfer of title or possession or both of the tangible personal property taxable herein whether involving a retail establishment or any other type of business enterprise.

E. When License Not Required. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Article. (Ord. 76-168; 1968 Code, §§ 3-77, 3-83)

7-2-502: APPLICATION; CONTENTS: City retailer and consumer licenses shall be granted only upon application stating the name and address of the person desiring such license, the name of such business and the character thereof, the location, including the street number, of such business and such other facts as may be required by the Director of Finance for the purpose of enforcement of this Article. Any person doing business as a wholesaler shall obtain a retailer's license if any sales are made at retail as defined herein. (Ord. 76-168; 1968 Code § 3-83)

7-2-503: LICENSE FEES: A one time fee of five dollars (\$5.00) shall be paid to the Director of Finance upon each application for a new license. Said fee is imposed to defray some of the expense of processing new licenses.

The license and tax imposed by this Article shall be in addition to all other licenses and taxes imposed by law, except as herein otherwise provided. (Ord. 76-168; 1968 Code § 3-83)

7-2-504: FORM OF LICENSE; TRANSFER: Each license shall be numbered and shall show the name, mailing address, and place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. (Ord. 76-168; 1968 Code § 3-83)

7-2-505: TEMPORARY LICENSE; CASH BOND:

- A. A temporary license may be applied for or required by the Director of Finance if it appears that said license will be used for sixty (60) or fewer consecutive days.
- B. A cash bond of twenty five dollars (\$25.00) shall be deposited with the Director of Finance before a temporary license is issued.
 - 1. If it appears that sales tax liability will exceed twenty five dollars (\$25.00), then the Director of Finance, in his discretion, may require a larger cash bond.
 - 2. In the event that the sales tax liability is less than the posted cash bond, a refund may be applied for within thirty (30) days after the expiration of a temporary license. (Ord. 76-168; 1968 Code § 3-83)

7-2-506: REVOCATION OF LICENSE; APPEAL: The Director of Finance may, on reasonable notice and after full hearing, revoke the license of any person found by the Director of Finance to have violated any provision of this Article. Any finding and order of the Director of Finance revoking the license of any person shall be subject to review by the El Paso County District Court upon application of the aggrieved party. The procedure for review shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 76-168; 1968 Code § 3-83)

CHAPTER 7 TAXATION
ARTICLE 2 SALES AND USE TAX
PART 6 TAXPAYER LIABILITY

SECTION:

- 7-2-601: Exemption Burden of Proof
- 7-2-602: Vendor's Responsibility
- 7-2-603: Responsibility for Use Tax Payments
- 7-2-604: Contractors, Owners or Lessees of Realty
- 7-2-605: New Business Purchases; Sellers and Purchasers
- 7-2-606: Automotive Vehicles
- 7-2-607: Liability of Fiduciaries

7-2-601: EXEMPTION BURDEN OF PROOF: The burden of proving that any vendor, retailer, consumer or purchaser is exempt from collecting or paying the tax upon any goods sold or purchased, paying the same to the City, or from making such returns, shall be on the vendor, retailer, consumer, or purchaser under such reasonable requirements of proof as the Director of Finance may prescribe. (Ord. 76-168; 1968 Code § 3-76)

7-2-602: VENDOR'S RESPONSIBILITY:

- A. Collection of Tax. Every retailer or vendor engaged in business and selling at retail as the same are defined in this Article shall, irrespective of the provisions of Part 2 of this Article, be liable and responsible for the payment of an amount equivalent to two and one-half percent (2½ %) of all sales made by him of commodities or services as specified in Part 3 hereof.
- B. Remittance of Tax. Every retailer or vendor engaged in business and selling at retail as the same are defined in this Article shall file a return as prescribed herein with the Director of Finance on or before the twentieth day of the month for the preceding month or months under report and remit an amount equivalent to said two and one-half percent (2½ %) of such sales and also any excessive tax collections over said two and one-half percent (2½ %) as provided in Section 7-2-808. The retailer shall add the tax as a

B) separate and distinct item and such tax shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts.

C. Tax on Credit Sales. In the case of a sale on credit, rental purchase agreement or a conditional contract sale whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a security interest in the goods or commodities to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. This tax shall be charged and collected by the seller.

No refund or credit shall be allowed by either party to the transaction in case of repossession. (Ord. 76-168; Ord. 84-27; 1968 Code § 3-77)

7-2-603: RESPONSIBILITY FOR USE TAX PAYMENTS:**A. City Residents.**

1. Every resident of the City who purchases or leases tangible personal property and taxable services for use, storage or consumption in the City from sources within or without the City and taxable hereunder and who has not paid the tax imposed by this Article thereon to a retailer required or authorized to collect the same or to any retailer, shall file a City use tax return and pay the tax due to the City within thirty (30) days from the purchase or lease of such tangible personal property and taxable service.

2. Such City use tax return shall show the value of the tangible personal property purchased or the rental or cost of leasing said property by such person, the use, storage, distribution or consumption of which is subject to the tax imposed by this Article, during the period of time covered by the return. (Ord. 76-168; 1968 Code § 3-78)

B. City Businesses.

1. Every person who operates or maintains a business in the City and who purchases or leases tangible personal property for use, storage or consumption in the City in connection with said business, from sources within or without the City and taxable hereunder, and who has not paid the tax imposed by this Article thereon to a retailer required or authorized to collect the same, shall, monthly, make a use tax return and pay the tax due to the City, on or before the twentieth day of the month following such purchase or lease and on or before the twentieth day of each calendar month thereafter for the preceding calendar month.

2. Such returns shall show the value of the tangible personal property purchased or the rental or cost of leasing said property by such person, the use, storage, distribution or consumption of which became subject to the tax imposed by this Article during the period of time covered by the return. (Ord. 76-168; 1968 Code § 3-79)

7-2-604: CONTRACTORS, OWNERS OR LESSEES OF REALTY: Every purchase by a contractor shall be taxable as a purchase at retail unless such purchase is for taxable resale or otherwise exempt under this Article. Every contractor who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or make improvement to real property, including all work performed on State, County, City, exempt institution and private construction job sites, in this City and who shall purchase lumber, fixtures, or any other building materials and supplies used therefor, and every owner, or lessee of realty situate in the City, upon which any article or articles of tangible personal property acquired from sources within or without the City are attached or affixed and which contractor, owner or lessee has not paid the tax imposed by this Article thereon, to a vendor required or authorized to collect the same, shall pay the sales and use tax by making a monthly return and paying the tax due to the City, on or before the twentieth day of the month following such purchase or lease, and on or before the twentieth day of each calendar month thereafter for the preceding calendar month.

A. Contents of Return. Such returns shall show the value of the tangible personal property purchased or the rental or cost of leasing said

A) property by such person, the use, storage, distribution or consumption of which became subject to the tax imposed by this Article during the period of time covered by the return.

B. Books and Records. Any person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure or improvement to real property within the City or who shall contract the aforesaid to be done and who shall purchase lumber, fixtures or any other building materials and supplies used therefor, or who shall contract for the purchase of the aforesaid shall keep and preserve all invoices, statements and other records showing such purchases.

C. Preservation of Books and Records. Any failure to preserve such invoices, statements and records shall cause all estimates and assessments of the tax owed, pursuant to Section 7-2-1002B, to be the only evidence of the tax due.

D. Furnishing of Information. It shall be the duty of the Regional Building Official¹ and the contractors and subcontractors who are hired to do the above-stated work, or any portion thereof, to furnish the Director of Finance such information as he may require as to any purchases of lumber, fixtures or any other building materials and supplies for such work.

E. Building Inspections. An inspection, including a periodic or final inspection, shall not be made by the Regional Building Official, nor shall a certificate of occupancy, whether temporary or final, be issued, unless all taxes due as provided by this Article, on all lumber, fixtures, and any other building materials and supplies used in or connected with the construction, reconstruction, alterations, expansion, modification or improvement to real property within the City have been paid or arrangements therefor made with the Director of Finance. (Ord. 76-168; Ord. 81-251; 1968 Code § 3-80)

**7-2-605: NEW BUSINESS PURCHASES;
SELLERS AND PURCHASERS:**

A. Acquisition of Business. The City tax shall be remitted on the price paid for tangible personal property which is acquired with the purchase of

1. The Regional Building Official is the administrator of the Regional Building Department. See Chapter 16, Article 1, Parts 1, 2 and 3 of this Code.

- A) a business, and for use in the operation of such business. The tax shall be based on the price paid for such chattels as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great or greater than the fair market value of such merchandise or chattels. Where the transfer of ownership is a package deal made by a lump sum transaction, the use tax shall be paid on the book value set up by the purchaser for income tax depreciation purposes, or on the fair market value if no determination for income tax purposes has been made. When a business is taken over, by foreclosure or otherwise, in return for the assumption of outstanding indebtedness owed by former owners, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser.
- B. Purchasers Liable for Prior Owner's Unpaid Tax. The purchasers of a business shall be liable for any unpaid tax of a predecessor. Vendors or consumers having outstanding accrual accounts on which sales or use tax has not been remitted must compute and pay the tax at the time of the sale of the business.
- C. Agent of Seller and Seller Liable for Tax. The taxpayer shall report such tax on the City consumer use tax return as prescribed. The seller or his agent shall be held liable for sales and use tax remittance on the sale of a business in the event the purchaser fails to remit the tax due on the purchase.
- D. Return and Withholding Taxes. Any person who shall sell out his business or stock of goods or shall quit his business shall be required to make out a return as provided in this Article within ten (10) days after the date he completes the sale of his business or stock of goods, or quits business, and his successor in business, if any, shall be required to withhold a sufficient amount of the purchase money to cover the amount of the sale and use taxes due and unpaid until such time as the former owner shall produce a receipt from the Director of Finance showing that the taxes have been paid, or a certificate that no taxes are due. (Ord. 76-168; 1968 Code § 3-81)

7-2-606: AUTOMOTIVE VEHICLES:

- A. Purchases in the City by Resident. Purchases of automotive vehicles, as defined, in the City by City residents for use within the City shall be subject to City sales tax. The tax shall be collected by the retailer selling the automotive vehicle and shall be paid by the purchaser. Where the seller does not collect the tax, the purchaser shall pay such tax to the City immediately and prior to registration and licensing of the vehicle.
- B. Purchases Outside City by City Resident. The purchase of any automotive vehicles outside the City by a resident of the City for use or storage in the City shall be subject to taxation hereunder. Said tax shall be payable to the City prior to or at the time the registration license is issued by the County Clerk and Recorder of El Paso County.
- C. Payment of Tax Before Registration, etc. Any resident of the City who shall purchase any automotive vehicle as defined in this Article, whether new or used, from sources within or without this City, for use within the City shall immediately, and prior to or at the same time of registering within El Paso County and obtaining the license therefor, make a return showing such transaction to the Director of Finance and thereupon pay the tax applicable thereto as provided in this Article, and failure to do so shall constitute a violation of this Article.
- D. Restrictions on Registration and Transfer of Title. No automotive vehicle, purchased or acquired by a resident of the City for use in the City, shall be registered in El Paso County, nor shall title thereto be transferred within El Paso County, nor shall a license or registration for the use thereof in the State of Colorado be issued by the County Clerk of El Paso County, if the tax imposed by this Article upon the purchase, or use, storage, distribution or consumption of the same has not been paid to the City.
- E. Failure to Register Automotive Vehicles as Resident of City. Any resident of the City who registers his automotive vehicle, whether new or used, outside the corporate limits of the

- E) City for use within the City, shall immediately, and prior to registering and obtaining a license therefor, make a return, showing such transaction to the Director of Finance and thereupon pay the tax applicable thereto as provided for in this Article, and failure to do so shall constitute a violation of this Article.
- F. Registration to Evade Taxation. If any resident of the City shall register his automotive vehicle in any other county of the State of Colorado, with the intent to evade taxation, he shall be guilty of a violation of this Article. (Ord. 76-168; 1968 Code § 3-82)

7-2-607: LIABILITY OF FIDUCIARIES:

- A. Satisfaction of Liability. For the purpose of facilitating the settlement and distribution of estates, trusts, receiverships, other fiduciary relationships, and corporations in the process of dissolution or which have been dissolved, the Director may agree with the fiduciary or surviving directors upon the amount of taxes due from the decedent, or from the decedent's estate, the trust, receivership, or other fiduciary relationship, or corporation, for any of his or its taxable periods, under the provisions of the taxes covered by this Article and except upon a showing of fraud, malfeasance or misrepresentation of a material fact, payment in accordance with such agreement shall be full satisfaction of the taxes for the taxable periods to which the agreement related.
- B. Personal Liability. Except as provided in subsection D of this Section, any personal representative of a decedent, or of the estate of a decedent, or any trustee, receiver, or other person acting in a fiduciary capacity, or any director of a corporation in the process of dissolution or which has been dissolved, who distributes the estate or fund in his control without having first paid any taxes covered by this Article due from such decedent, decedent's estate, trust estate, receivership, or corporation, covered by this Article and which may be assessed within the time limited by this Article, shall be personally liable to the extent of the property so distributed, for any unpaid taxes of the decedent, decedent's estate, trust estate, receivership, or corporation, covered by this Article and which may be assessed within the time limited by this Article.

- C. Notification of Liability. The distributee of a decedent's estate, or a trust estate or fund, or the stockholder of any dissolved corporation who receives any of the property of such decedent's estate, trust estate, fund, or corporation, shall be liable to the extent of the decedent, trust estate, fund, or corporation, covered by this Article and which may be assessed within the time limited by this Article. Notice to such distributee or stockholder shall be given in the same manner and within the time limit which would have been applicable had there been no distribution.
- D. Limitation of Liability.

1. In the event tax covered by this Article is due from a decedent, or of his estate, or by a corporation, and in order for a personal liability under subsection B of this Section to remain in effect, determination of the tax due shall be made and notice and demand therefor shall issue within eighteen (18) months after written request for such determination, filed after the filing of the decedent's final return or filed after the filing of the return of the decedent's estate with respect to which such request is applicable, by any personal representative of such decedent, or by the corporation, filed after the filing of its return; but a request under this provision shall not extend the period of limitation otherwise applicable.

2. This subsection D will not apply in the case of a corporation unless:

a. Such request notifies the Director that the corporation contemplates dissolution at or before the expiration of such eighteen (18) month period.

b. The dissolution is begun in good faith before the expiration of such eighteen (18) month period; and

c. The dissolution is completed.

3. Upon the expiration of said eighteen (18) month period, without determination being made and notice and demand being issued, the personal representative or representatives of the decedent, and the directors of the corporation no longer will be liable under the provisions of subsection B of this Section. (Ord. 76-168; 1968 Code § 3-106)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 7 BOOKS, RECORDS AND ACCOUNTS

SECTION:

- 7-2-701: Taxpayer to Keep
- 7-2-702: Preservation
- 7-2-703: Examination
- 7-2-704: Keeping Outside City

The Director of Finance in his discretion may make, permit, or cause to be made, the examination, inspection and audit of books, invoices, accounts and other records so kept or maintained by such retailer or such person outside the City or State of Colorado where the same will be made available; provided, however, such books, invoices, accounts and other records are not otherwise made available to the Director of Finance at the time and place deemed suitable by the Director of Finance. In the event such examination, inspection or audit is found to be necessary by the Director of Finance under the terms hereof, such retailer or person, for whom the examination, inspection or audit is required, shall be liable to reimburse the City for all costs and expenses incurred by it in order to have such examination, inspection or audit in such place. (Ord. 76-168; 1968 Code § 3-84)

7-2-701: **TAXPAYER TO KEEP:** It shall be the duty of every person engaged in business in the City, for the transaction of which a license is required hereunder, and of every person purchasing tangible personal property or services subject to the tax imposed hereunder who has not paid the tax imposed to the person required or authorized to collect the tax, to keep and preserve, for a period of three (3) years, suitable records of all sales or purchases made by him and other such books or accounts as may be necessary to determine the amount of the tax for the collection or payment of which he is liable hereunder. (Ord. 76-168; 1968 Code § 3-84)

7-2-702: **PRESERVATION:** It shall be the duty of every such retailer and every such person to keep and preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale, and all such books, invoices, and other records. (Ord. 76-168; 1968 Code § 3-84)

7-2-703: **EXAMINATION:** All records and other receipts, invoices and documents required to be kept hereunder shall be open for examination by the Director of Finance upon demand. (Ord. 76-168; 1968 Code § 3-84)

7-2-704: **KEEPING OUTSIDE CITY:** If such retailer or other person keeps or maintains his books, invoices, accounts or other records, or any portion thereof, outside the City, upon demand by the Director of Finance he shall make the same available at a suitable place within the City, to be designated by the Director of Finance, for examination, inspection and audit by the Director of Finance.

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 8 TAX RETURNS AND PAYMENTS

SECTION:

- 7-2-801: Reporting and Remittance Periods
- 7-2-802: Form and Contents
- 7-2-803: Consolidation of Return
- 7-2-804: Vendor's Fee; Timely Filing of Return
- 7-2-805: Special Accounting
- 7-2-806: Confidential Information; Employee Restrictions
- 7-2-807: Examination of Returns
- 7-2-808: Excess Collection; Failure to Remit Collections
- 7-2-809: Unlawful to Assume or Absorb Tax
- 7-2-810: Refunds
- 7-2-811: Alternative Rate of Tax Exemption Credit

7-2-801: REPORTING AND REMITTANCE PERIODS:

- A. Every retailer shall file a tax return each month with the Director of Finance, on or before the twentieth day of each calendar month, and shall simultaneously remit an amount equal to the amount required by Part 2 of this Article.
- B. If the accounting methods regularly employed by the vendor or licensed consumer in the transaction of his business, or other conditions are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Director of Finance may, upon written request of the vendor or licensed consumer, accept returns at such intervals as will, in his opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax; provided, however, the Director of Finance may by rule permit a vendor or licensed consumer whose monthly tax collected is less than one hundred dollars (\$100.00) to make returns and pay taxes at intervals not greater than three (3) months, or as approved by the Director of Finance. (Ord. 76-168; Ord. 83-164; 1968 Code § 3-85)

7-2-802: FORM AND CONTENTS:

- A. Returns to be filed by the taxpayer or his duly authorized agent, or other persons required to

A) file returns shall contain such information and be made in such manner and upon such forms as the Director of Finance may prescribe.

- B. The City shall use the standard municipal sales and use tax reporting form and any subsequent revisions thereto adopted by the Executive Director of the Department of Revenue by the first full month commencing one hundred twenty (120) days after the effective date of the regulation adopting or revising such form. On the adoption of the forms set forth in subsection B by the Executive Director of the Department of Revenue, the Director of Finance shall provide for an effective date for such form within the period prescribed in subsection B and on such form becoming effective, such form shall supersede and replace any form in conflict therewith prescribed by the Executive Director under subsection A of this Section. (Ord. 85-274)

7-2-803: CONSOLIDATION OF RETURN: A retailer engaged in business in two (2) or more places or locations, whether within or without the City, and collecting taxes hereunder, may file one return covering all such places or locations, when accompanied by a supplemental report showing the gross and net taxable sales for each such place or location. (Ord. 76-168; 1968 Code § 3-85)

7-2-804: VENDOR'S FEE; TIMELY FILING OF RETURN: Retailers may take a vendor's fee, as collecting agent of the City, of three percent (3%) of the amount of his periodic tax liability. Said fee, if taken, shall be shown and deducted from the retailer's tax liability for a reporting period on the tax return for said reporting period.

In the event a tax return is not timely filed or in the event a proper remittance is not timely made, then the vendor's fee may not be taken. (Ord. 76-168; 1968 Code § 3-85)

7-2-805: SPECIAL ACCOUNTING:

- A. **Alcoholic Beverage Sales by the Drink.** Any retailer selling malt, vinous, or spirituous liquors by the drink may include in his sales price the tax levied under this Article; provided, that no such retailer shall advertise or hold out to the public in any manner, directly or indirectly, that such tax is not included as a part of the sales price to the consumer. The schedule set forth in Part 2 of this Article shall be used by such retailer in determining amounts to be included in such sales price. No such retailer shall gain any benefit from the collection or payment of such tax, except the permitted vendor's fee, nor shall the use of the schedule set forth in Part 2 of this Article relieve such retailer from liability for payment of the full amount of the tax levied by this Article. (1968 Code § 3-86)
- B. **Combined Sales of Services and Personal Property.** Every retailer or vendor conducting a business in which the transaction between the vendor and the consumer or purchaser consists of the supply of tangible personal property and services in connection with the maintenance or servicing of same, shall be required to pay the tax levied under this Article upon the full contract price, unless application is made to the Director of Finance for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under such contract. The Director of Finance is hereby authorized to determine the percentage based upon the ratio of the tangible personal property included in the consideration as it bears to the total of the consideration paid under said combination contract or sale which shall be subject to the tax levied pursuant to the provisions of this Article. This Section shall not be construed to include elements upon which the tax is to be imposed as the full purchase price as defined in Section 7-2-103 of this Article, nor shall be construed as an allowance for the vendor to fail to itemize to the customer the taxable and nontaxable portions of the bill. (1968 Code § 3-87)
- C. **Use Tax Collections by Nonresident Vendors.** Every retailer or vendor engaged in business in this City even though not maintaining an office in this City, and making sales of tangible personal property or taxable services subject to the use tax, must, in accordance with this Article, collect and remit the use tax on such sales in like manner as Colorado Springs retailers collect and remit the sales tax. Provided, that if the nonresident vendor petitions the Director of Finance stating that the imposition of the tax

C) on an individual sales basis will impose an unnecessary hardship, and if the type and occasion of sale so warrants, the Director may accept payment of that vendor's tax liability on regularly audited and reasonable estimated payment basis. This estimated payment will be based on the surveyed Colorado Springs sales and use tax liability as it bears to the vendor's aggregate gross sales and services. (1968 Code §3-88)

- D. **Leases and Rentals.** When right to continuous possession or use of any article of tangible personal property is granted under a lease or contract of such transfer of possession would be taxable under this Article if an outright sale were made, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid upon the rentals charged.

In lieu of computing and paying tax upon each rental charge as it is paid or becomes due, the retailer may pay one lump sum payment based on the entire retail purchase price of the item to be leased or rented, upon written permission by the Director of Finance. (Ord. 76-168; 1968 Code § 3-89)

**7-2-806: CONFIDENTIAL INFORMATION;
EMPLOYEE RESTRICTIONS:**

- A. **Returns.** Except in accordance with judicial order or as otherwise herein provided, the Director of Finance, his agents, clerks and employees shall not divulge any information gained from any return filed under the provisions of this Article.
- B. **Evidentiary Use.** The persons charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained therein in any action or proceeding in any court, except on behalf of the Director of Finance in any action under the provisions of this Article to which he is a party, or on behalf of any party to an action or proceeding under the provisions of this Article or to punish a violator thereof when the report of facts shown by such report is directly involved in such action or proceeding in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.

- C. **Exceptions to Confidential Use of Returns.** Nothing contained in this Section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return or report filed in connection with this tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the City Attorney, or any other legal representative of the City, of the report or return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been instituted under this Article.
- D. **Wrongfully Divulged Information.** Any City officer or employee, or any member of the office of, or officer or employee of the Director of Finance who shall divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation hereof, shall be punished as provided by law, and shall be immediately dismissed from the employ of the City. Any person who requests that such confidential information be divulged shall also be guilty of a violation of this Article and subject to the penalties thereof.
- E. **Employee's Restrictions.** It shall be unlawful for any member of the Department of Finance and Management Services, any deputy, agent, clerk or other officer or employee engaged in any administration which is governed by this sales and use tax Article, to engage in the business or profession of tax accounting or to accept employment, with consideration, from any person for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the City, or to accept any employment for the purpose of advising, preparing materials or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the City. (Ord. 76-168; 1968 Code § 3-93)

7-2-807: EXAMINATION OF RETURNS: As soon as practicable after the return is filed, the Director of Finance may examine it.

- A. **Recomputation.** If it then appears that the correct amount of tax to be remitted is greater or less than that shown in the return, the tax shall be recomputed by the Director.

- B. **Overpayment.** If the amount paid exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from the same person.
- C. **Underpayment.** If the amount paid is less than the amount due, the difference, together with interest thereon at the rate as specified in Section 7-2-1004 from the time the return was due, shall be paid by the taxpayer within ten (10) days after written notice and demand to him from the Director.
- D. **Negligent Deficiency.** If any part of the deficiency is due to negligence, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency; and in such case interest shall be collected at the rate as specified in Section 7-2-1004 on the amount of the deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable within ten (10) days after written notice and demand by the Director.
- E. **Fraudulent Deficiency.** If any part of the deficiency is due to fraud with the intent by the taxpayer to evade the tax, then there shall be added one hundred percent (100%) of the total amount of the deficiency, and in such case the whole amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand by the Director of Finance and an additional three percent (3%) per month on said amount shall be added from the date the return was due until paid. (Ord. 85-274)

7-2-808: EXCESS COLLECTION; FAILURE TO REMIT COLLECTIONS: If any retailer shall, during any reporting period, collect as a tax an amount in excess of two and one-half percent (2½ %) of his total taxable sales, he shall remit to the Director of Finance the full net amount of this tax herein imposed and also such excess. The retention by the retailer of any excess of tax collections over two and one-half percent (2½ %) of the total taxable sales of such retailer, or the intentional failure to remit punctually to the Director of Finance the full amount required to be remitted by the provisions of this Article, is hereby declared to be a violation of this Article and shall subject said retailer to the imposition of penalty and interest, and may subject him to other remedial actions provided for within this Article. (Ord. 76-168; Ord. 84-27; 1968 Code § 3-85)

7-2-809: UNLAWFUL TO ASSUME OR ABSORB

TAX: It shall be unlawful for any retailer to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax, or any part thereof imposed by this Article will be assumed or absorbed by the retailer, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof will be refunded. (Ord. 76-168; 1968 Code § 3-90)

7-2-810: REFUNDS:

- A. Overpayments. For transactions consummated on or after January 1, 1986, no refund shall be made nor credit allowed for tax overpaid by any person, prior to compliance with the following conditions precedent:

1. Applications. Claims may be made for tax moneys paid in error or mistake or paid in excess of the rate as specified in the alternative rate of tax exemption where an overpayment results. Application for refund must be made within three (3) years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed. The application must be made on forms prescribed and furnished by the Director, which forms shall contain such information as the Director shall prescribe.

2. Examination of Applications. Upon receipt of such application, the Director of Finance shall examine the same with all due speed and shall give notice in writing to the applicant of his decision thereon.

3. Proceeds of Claims. The proceeds of any claim for an overpayment refund shall first be applied by the Director to any tax deficiencies or liabilities existing against the claimant before allowance of such claim. If any overpayment of tax moneys for any period is discovered as a result of audit by the Director and deficiencies are discovered and assessed against the taxpayer as a result of such audit, such excess moneys shall first be applied against any deficiencies outstanding or any liabilities existing against the claimant to the date of assessment. If an overpayment exists after such application, the claimant may elect to take a credit for said amount toward future liabilities or may have said amount refunded.

- A) 4. Aggrieved Applicants. If a claim for refund is denied in whole or in part, an aggrieved applicant may, within ten (10) days after the mailing of the decision, petition the Director for a hearing on the claim in the manner herein provided.

- B. Dispute Exemption. No refund shall be made nor credit allowed for the tax so paid under dispute by any person who claims one or more exemptions as provided by this Article except upon compliance with the following conditions precedent:

1. Applications. Applications for refund must be made within sixty (60) days after the purchase or acquisition of the goods or service on which the exemption is claimed and must be supported by the affidavit of the applicant accompanied by the original paid invoice or sales receipt and a certificate issued by the seller. The application must be made upon such forms as shall be prescribed and furnished by the Director of Finance, which forms shall contain such information as the Director shall prescribe.

2. Proof of Exemption. The burden of proving that any person is exempt from paying the tax upon any personal property or service purchased, acquired, used, stored or consumed within the City shall be upon the person asserting such claim for exemption under such reasonable requirements of proof as the Director may prescribe.

3. Examination of Applications. Upon receipt of such application, the Director shall examine the same with all due speed and shall give notice in writing to the applicant of his decision thereon.

4. Aggrieved Applicants. If a claim for refund for a disputed exemption is denied, in whole or in part, an aggrieved applicant may, within ten (10) days after the mailing of the decision, petition the Director for a hearing on the claim in the manner herein provided.

- C. False Statements.

1. False Statements. It shall be unlawful for any person to make any false statement in connection with an application for refund of any taxes.

- C) 2. Recovery of Refunds. If any person is convicted under the provisions of subsection C1 of this Section, such conviction shall be prima facie evidence that all refunds received by such person during the preceding three (3) year period were obtained unlawfully and the Director of Finance is empowered to bring appropriate action for the recovery of such refunds. (Ord. 85-274)

7-2-811: ALTERNATIVE RATE OF TAX

EXEMPTION CREDIT: A taxpayer is entitled to a credit for tax paid by the taxpayer in excess of the applicable tax under the rate of tax as specified in the alternative rate of tax exemption. Such credit may be taken by the taxpayer against any tax due and owing on a sales and use tax return filed by the taxpayer during the period for which the taxpayer is eligible for a refund under Section 7-2-810 of this Article. (Ord. 85-213)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 9 ADMINISTRATION

SECTION:

- 7-2-901: Duties and Powers of Director
- 7-2-902: Preservation of Tax Reports and Returns
- 7-2-903: First Administrative Hearing
- 7-2-904: Second Administrative Hearing
- 7-2-905: Time Limitation for Hearing Requests
- 7-2-906: Judicial Review of Hearings Under
Section 7-2-904
- 7-2-907: Sales or Use Tax - Posting of Bonds Upon
Final Decision Under Section 7-2-904
- 7-2-908: Sales and Use Tax - Alternative Dispute
Resolution Procedure - Deficiency
Notice or Claim for Refund
- 7-2-909: Notices; Manner of Delivery

7-2-901: DUTIES AND POWERS OF DIRECTOR:

- A. Administration by Director. The administration of the licensing provisions of this Article is hereby vested in the Director of Finance; and the administration of all other provisions of this Article and of the City retail sales and use tax is hereby vested in and shall be exercised by the Director of Finance.
- B. Promulgate Rules and Regulations. The Director of Finance shall prescribe forms and shall, with the approval of the City Manager and after hearing, promulgate appropriate rules and regulations to effectuate the purpose of this Article, in conformity with this Article and subject to other provisions of law relating thereto, for the making of returns, for the ascertainment, assessment and collection of the taxes imposed and for the proper administration and enforcement thereof, and to provide uniform methods of adding the tax, or the average equivalent thereof, to the purchase price. The Director shall have power and authority to amend and to rescind such rules and regulations, not inconsistent with the provisions of this Article as to the promulgation of regulations. Regulations adopted, amended or rescinded by
 - B) the Director shall be effective in the manner and at the time prescribed by the Director, subject to the provisions of this Article.
- C. Director May Require Reports, Records. The Director may require any person, by regulation or notice served on such person, to make such return, render such statement or keep and furnish such records, or make such information reports as the Director may deem sufficient to show whether or not such person is liable under this Act for payment or collection of the tax imposed herein.
- D. Director to Examine Returns. For the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax due from any taxpayer, the Director shall have power to examine or cause to be examined by any employee, agent, or representative designated by him for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return. Subject to the provisions of this Article, the Director of Finance is authorized to prescribe the duties and powers of such employees, accountants, experts, and other persons as may be necessary in the performance of his duty. The Director of Finance may delegate to any such person such power and authority as he deems reasonable and proper for the effective administration of this Article.
- E. Sales and Use Tax - Collection - Location Guide of Municipal Boundaries. The Director shall make available to any requesting vendor a location guide showing the boundaries of the City. For transactions consummated on or after January 1, 1986, the requesting vendor may rely on such location guide and any update thereof available to such vendor in determining whether to collect a sales or use tax or both. No penalty shall be imposed or action for deficiency maintained against such vendor who in good faith complies with the most recent location guide available to it. (Ord. 76-168; Ord. 85-274; 1968 Code § 3-91)

7-2-902: PRESERVATION OF TAX REPORTS AND RETURNS: All reports and returns of taxes received by the Department of Finance as required by this Article shall be preserved for three (3) years and thereafter until the Director of Finance orders them to be destroyed. (1968 Code § 3-92)

7-2-903: FIRST ADMINISTRATIVE HEARING:

- A. Request for Hearing. Any taxpayer may request a hearing on any proposed tax by reason of notice of determination, assessment and demand for payment or by reason of denial in whole or in part of his claim for refund, by application to the Director within ten (10) days of the mailing of a notice of deficiency, assessment and demand for payment or notice of denial of refund.
- B. Contents of Petition. Said petition shall be under oath of the taxpayer and shall set forth:
 - 1. The reason why such hearing should be granted;
 - 2. The amount of tax disputed;
 - 3. Any requested changes;
 - 4. A complete description of documents and tax periods pertaining to the hearing; and
 - 5. The name, address, telephone number and sales or use tax license number of said taxpayer.
- C. Time and Place of Hearing. The Director of Finance shall notify the taxpayer in writing of the time and place for such hearing ten (10) days prior thereto. In all cases, the hearing shall be held in Colorado Springs, Colorado.
- D. Referee to Conduct Hearing. The Director shall appoint an impartial referee to conduct a hearing. The referee shall not be the sales tax division supervisor, nor any other person who has previously ruled on the tax problem being petitioned to the Director. Such hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the City may submit a brief. The City shall hold such hearing and issue the final decision within ninety (90) days after the City's receipt of the
 - D) taxpayer's written request therefor, except the City may extend such period if a delay in holding a hearing or issuing a decision thereon was occasioned by the taxpayer, but, in any such event, the City shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor.
 - E. Referee May Adjust Tax Under Question. Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions at any hearing, the referee may modify or abate in full the tax, penalty and interest questioned at the hearing or may approve a refund.
 - F. Hearing Determination Notices. Upon approval or rejection, in whole or in part, of the claim for refund or upon the finding by the referee that an assessment in whole or in part has been made properly or improperly against the taxpayer, the referee shall mail a hearing determination notice to the taxpayer setting forth the amount of claim for refund allowed or denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection of the petition, in whole or in part. Every decision of the referee shall be in writing and notice thereof shall be mailed to the taxpayer within twenty (20) days following the hearing, but in any event within the time limits prescribed in subsection D of this Section. (Ord. 85-274)

7-2-904: SECOND ADMINISTRATIVE HEARING:

- A. Within thirty (30) days following the mailing of the hearing determination notice, the aggrieved taxpayer may appeal the referee's decision by petitioning for a second hearing to be conducted solely by the Director of Finance.
- B. The Director shall notify the taxpayer in writing of the time and place for such hearing ten (10) days prior thereto. In all cases the hearing shall be held in Colorado Springs, Colorado.
- C. The hearing shall be formally conducted with a verbatim record retained thereof.
- D. The Director may modify or abate in full the tax penalty and interest questioned at the hearing, or may approve, in whole or in part, the re-

- D) requested refund, as the evidence presented at the hearing justifies.
- E. Within twenty (20) days of the hearing, the Director shall issue a written final hearing determination notice. (Ord. 85-274)

7-2-905: TIME LIMITATION FOR HEARING

REQUESTS: After the expiration of ten (10) days from the mailing of the notice of determination, assessment and demand for payment, or of the denial of refund, if the tax has not been paid and if no request for hearing has been made as provided in Section 7-2-903, then the notice of determination, assessment and demand for payment previously mailed, shall constitute a final assessment of the amount of the tax specified, together with interest, additions to tax and penalties, or the uncontested denial of refund shall constitute a final denial of refund, as the case may be, except only for such amounts as to which the taxpayer has timely filed a protest with the Director. (Ord. 85-274)

7-2-906: JUDICIAL REVIEW OF HEARINGS UNDER SECTION 7-2-904:

The District Court within and for the County of El Paso shall review all determinations of the Director of Finance made under the provisions of Section 7-2-904 of this Article under rule 106(a)(4) of the Colorado Rules of Civil Procedure as the same now provides or may be hereinafter amended. (Ord. 85-274)

7-2-907: SALE OR USE TAX - POSTING OF BONDS UPON FINAL DECISION UNDER SECTION 7-2-904:

- A. Within fifteen (15) days after filing for judicial review as provided in Section 7-2-906, the taxpayer shall file with the District Court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the Director which are contested on appeal. The taxpayer may, at his option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank or by a State or Federal savings and loan association, in accordance with the provisions of section 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest and other charges stated in the final decision by the Director.

- B. The taxpayer may, at his option, deposit the disputed amount with the Director in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the Supreme Court or the court of appeals or after the time for such appeal has expired, the funds deposited shall be, at the direction of the court, either retained by the Director and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed pursuant to Section 7-2-1004 of this Article. No claim for refund of amounts deposited with the Director need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the court. (Ord. 85-274)

7-2-908: SALES AND USE TAX - ALTERNATIVE DISPUTE RESOLUTION PROCEDURE - DEFICIENCY NOTICE OR CLAIM FOR REFUND:

For transactions consummated on or after January 1, 1986, in lieu of the procedure provided for in Section 7-2-904, the taxpayer may elect a State hearing on the decision of the referee appointed pursuant to the provisions of Section 7-2-903 on deficiency notice or claim for refund pursuant to the procedures set forth in this Section:

- A. As used in this Section 7-2-908, "State hearing" means a hearing before the Executive Director of the Department of Revenue of the State of Colorado or delegate thereof as provided in section 29-2-106.1(3), C.R.S.
- B. When the City asserts that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, the City shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional sales and uses taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a State hearing on the deficiency pursuant to section 29-2-106.1(3), C.R.S. Any taxpayer shall also have the right to elect a State hearing on the City's denial of such taxpayer's claim for a refund of sales or use tax paid.
- C. The taxpayer shall request the State hearing within thirty (30) days after the taxpayer's ex-

- C) exhaustion of local remedies. The taxpayer shall have no right to such hearing if he has not exhausted local remedies or if he fails to request such hearing within the time period provided for in subsection C. For purposes of this subsection C, "exhaustion of local remedies" means:
1. The taxpayer has timely requested in writing an administrative hearing as provided in Section 7-2-903 and the hearing has been held in conformity with the provisions of Section 7-2-903, or,
 2. The taxpayer has timely requested in writing a hearing before the City and the City has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in Section 7-2-903F.
- D. If the taxpayer has exhausted his local remedies as provided in subsection C above, the taxpayer may request a State hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in section 29-2-106.1(3) through (7), C.R.S.
- E. If the deficiency notice or claim for refund involves only the City, in lieu of requesting a State hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the District Court of the County of El Paso as provided in section 29-2-106.1(8), C.R.S., provided the taxpayer complies with the procedures set forth in subsection C of this Section. (Ord. 85-274)

7-2-909: **NOTICES; MANNER OF DELIVERY:** All notices required to be given to any person under the provisions of this Article shall be in writing and, if mailed, shall be postpaid by certified or registered mail, "return receipt requested", directed to him at his last known address. This mailing shall be sufficient for the purpose of this Article. (Ord. 76-168; Ord. 85-274; 1968 Code § 3-107)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 10 OFFENSES; FAILURE TO FILE, PAY

SECTION:

- 7-2-1001: Discovery
- 7-2-1002: Assessment of Taxes
- 7-2-1003: Failure to File Tax Return, Pay Tax
- 7-2-1004: Rate of Interest
- 7-2-1005: Additional Corporate and Partnership Penalty
- 7-2-1006: Director May Waive Penalty; Credit; Limitation
- 7-2-1007: Unlawful Acts
- 7-2-1008: Payment by Cash or Guaranteed Funds
- 7-2-1009: Cost of Collection

7-2-1001: **DISCOVERY:**

- A. Investigation of Books and Records. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the Director of Finance may hold investigations, examinations, audits and hearings concerning any matters covered by this Article and may investigate, examine, and audit any relevant books, papers, records, or memoranda of any such person and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such sales, and may take testimony and require proof of his information. The Director of Finance shall have power and authority to administer oaths to such persons.
- B. Depositions. The Director of Finance or any party in an investigation or hearing before the Director of Finance may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.
- C. Subpoena by Director of Finance. If any taxpayer shall refuse voluntarily to furnish any of the

C) foregoing information when requested by the Director or his employee, agent, or representative, the Director of Finance, by subpoena issued under his hand, may require the attendance of the taxpayer and the production by him of any of the foregoing information in his possession, and may administer an oath to him and take his testimony.

- D. Judicial Subpoena. If the Director of Finance is unable to secure from the taxpayer information relating to the correctness of the taxpayer's return or the amount of the taxes due by the taxpayer, the Director of Finance may apply to any judge of the Municipal Court of the City for the issuance of subpoenas to such other persons as the Director believes may have knowledge in the premises.

Upon showing to the satisfaction of the Court that the taxpayer cannot be found, or evades service of subpoena, or fails or refuses to produce his records or give testimony, or is unable to furnish such records or testimony, the judge shall have power, after service of summons upon the persons named in the petition of the Director of Finance, and after hearing, to cause the issuance of subpoenas under the seal of the Court to the persons sought to be so summoned requiring them or any of them to appear before said Director and give testimony relating to said taxpayer's return or sales or purchases.

In the event any person so served with subpoena shall fail to respond thereto, the judge may proceed against such person as in cases of contempt.

- E. Issuance of Subpoenas and Witness Fees. All subpoenas issued under the terms of this Article may be served by any person over the age of eighteen (18) years. The fees of witnesses for attendance and trial shall be the same as the fees of witnesses before the District Court, such fees to be paid when the witness is excused from further attendance.

- E) When the witness is subpoenaed at the insistence of the Director of Finance, such fees shall be paid in the same manner as other expenses under the terms of this Article, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Director of Finance may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Director of Finance, in his discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record. (Ord. 76-168; 1968 Code § 3-95)

7-2-1002: ASSESSMENT OF TAXES: If any person or taxpayer or vendor fails, neglects or refuses to collect the tax, or to make a return, or to pay the tax required in full, then the Director, on such information as is available, shall make an estimate of the tax due. In addition to the estimated tax there shall be added penalties and interest, when imposed by Section 7-2-1003 of this Part. The Director shall give the delinquent taxpayer, person or vendor written notice of determination, assessment and demand for payment, which notice shall be served personally, or by certified mail, and which assessment of the deficiency amount shall be due and payable ten (10) days after service of such notice. If such tax deficiency amount, penalty and interest is not paid, or no request for hearing under Section 7-2-903 of this Article is made within ten (10) days after notice of determination, assessment and demand for payment is mailed or personally delivered to the taxpayer, he shall waive his right of protest of such amount and such assessment shall be final. (Ord. 85-274)

7-2-1003: FAILURE TO FILE TAX RETURN, PAY TAX:

- A. Interest on Underpayment, Nonpayment, or Extensions of Time for Payment of Tax: If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under Section 7-2-1004 of this Article shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any

- A) extension of time for payment and shall be determined without regard to any notice and demand for payment issued by the Director. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises.

1. Interest prescribed under Section 7-2-1003 of this Article shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.

2. If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this Section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowed with respect to such overpayment.

3. Interest prescribed under Section 7-2-1003 of this Article on any sales or use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected.

- B. Sales or Use Tax - Deficiency Due to Negligence. If any part of the deficiency in payment of the sales or use tax is due to negligence or intentional disregard of the ordinances or of authorized rules and regulations of the City with knowledge thereof, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under Section 7-2-1004, on the amount of such deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable ten days after written notice and demand is made to him by the Director.

- C. Deficiency Due to Fraud. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent of the total amount of the deficiency and in such case, the whole amount of the tax unpaid, including the additions, shall become due and payable ten (10) days after written notice and demand is made by the Director, and an additional three percent (3%) per month on said amount shall be added from the date the return was due until paid.

- D. **Sales Tax - Use Tax - Neglect or Refusal to Make Return or to Pay:** If a person neglects or refuses to make a return in payment of the sales or use tax or to pay any sales or use tax as required, the Director shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars (\$15.00) for such failure or ten percent (10%) of the delinquent tax, whichever is greater, and interest on such delinquent taxes at the rate imposed under Section 7-2-1004 plus one-half percent ($\frac{1}{2}\%$) per month from the date when due, not exceeding eighteen percent (18%) in the aggregate. (Ord. 85-274)

7-2-1004: RATE OF INTEREST: When interest is required or permitted to be charged under the provisions of this Article, the annual rate of interest shall be that established by the State Commissioner of Banking pursuant to section 39-21-110.5 C.R.S. (Ord. 85-274)

7-2-1005: ADDITIONAL CORPORATE AND PARTNERSHIP PENALTY: In addition to the personal liability provided in Section 7-2-607 of this Article, all officers of a corporation and all members of a partnership required to collect, account for, and pay over any tax administered by this Article who wilfully fail to collect, account for, or pay over such tax or who wilfully attempt in any manner to evade or defeat any such tax, or the payment thereof, are subject to, in addition to other penalties provided by law, a penalty equal to one hundred fifty percent (150%) of the total amount of the tax not collected, accounted for, paid over, or otherwise evaded. An officer of a corporation or a member of a partnership shall be deemed to be subject to this Section if the corporation or partnership is subject to filing returns or paying taxes administered by this Article and if such officers of corporations or members of partnerships voluntarily or at the direction of their superiors assume the duties or responsibilities of complying with the provisions of any tax administered by this Article on behalf of the corporation or partnership. (Ord. 85-274)

7-2-1006: DIRECTOR MAY WAIVE PENALTY; CREDIT; LIMITATION: The Director is

hereby authorized to waive, for good cause shown, any penalty assessed as in this Article provided, and for the purpose of this subparagraph, interest imposed in excess of six percent (6%) per annum shall be deemed a penalty. (Ord. 85-274)

7-2-1007: UNLAWFUL ACTS: It shall be unlawful for any retailer, vendor, consumer, purchaser or any other person subject to the tax levied by this Article,

- A. To fail to make any required return by the due date, or
- B. To make any false or fraudulent return, or
- C. To make any false statements in any return, or
- D. To fail to make payment to the Director of Finance by the due date of any taxes collected or due the City, or any interest or penalty due the City, or
- E. To evade the collection or payment of any taxes collected or due the City or the payment of interest or penalty due the City, or
- F. To fail to pay by the due date such tax, interest, penalty, or
- G. To aid or abet another in any attempt to evade payment of such tax, interest or penalty, or
- H. To issue to the City a check in payment of any taxes collected or due the City or in payment of penalty or interest due the City, which check is dishonored by the drawee of the check. In any prosecution for a violation of this subsection, introduction of the check dishonored by the drawee, bearing notice of such dishonor from the drawee, shall constitute in evidence a prima facie showing that such check was issued by the drawer at a time when the drawer had on deposit with the drawee insufficient funds to allow the drawee to honor the check on presentment. (Ord. 76-168; Ord. 81-251; Ord. 83-112; 1968 Code § 3-110)

7-2-1008: PAYMENT BY CASH OR GUARANTEED FUNDS: When any

person, taxpayer or vendor liable for the payment of a tax imposed by this Article has issued to the City three (3) or more checks dishonored by the drawee on account of insufficient funds or for any reason whatsoever, then the Director of Finance may require that such person, taxpayer or vendor pay any taxes collected for or due to the City or any penalty or interest due to the City by cash or funds in such other form that will in the discretion of the Director guarantee payment of the tax, penalty or interest to the City. (Ord. 81-251)

7-2-1009: COST OF COLLECTION: If any person, taxpayer or vendor liable for the payment of a tax imposed by this Section has repeatedly failed, neglected, or refused to pay the same within the time specified for such payment, and the Director has been required to exercise enforcement proceedings three (3) or more times through the issuance of a Notice of Determination, Assessment and Demand for Payment to enforce collection of any such taxes due, the Director is hereby authorized to assess and collect the amount of such taxes due together with all interest and penalties thereon provided by law and also an additional amount of fifty dollars (\$50.00) which is imposed to compensate the City for administrative and collection costs incurred in collecting such delinquent taxes. The Director may modify or abate in full the cost of collection for good cause shown. (Ord. 85-274)

CHAPTER 7 TAXATION
ARTICLE 2 SALES AND USE TAX
PART 11 LIENS

SECTION:

- 7-2-1101: Sales and Use Tax Constitute Lien
- 7-2-1102: Precedence of Liens
- 7-2-1103: Notice of Tax Lien
- 7-2-1104: Form of Notice and Filing of Lien
- 7-2-1105: Transactions, Commodities Subject to Tax Liens
- 7-2-1106: City a Party to Title Actions for Determination of Liens
- 7-2-1107: Filing and Release of Lien
- 7-2-1108: Certificate of Discharge; Values Determined

7-2-1101: SALES AND USE TAX CONSTITUTE

LIEN: The tax imposed by this Article, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and until paid, remain a first and prior lien superior to all other liens upon the tangible personal property sold, purchased, stored, used, distributed or consumed, as well as upon the goods, merchandise, furniture and fixtures, tools, equipment, cash, bank accounts and accounts receivable, of any retailer, or used by any retailer in conducting his retail business under lease, title retaining contract or other contract arrangement, within the City. (Ord. 76-168; 1968 Code § 3-101)

7-2-1102: PRECEDENCE OF LIENS: Said lien shall take precedence on all such property over other liens or claims of whatsoever kind or nature, except that a lien upon real property shall be subject to a valid mortgage or other liens of record on and prior to the recording of notice as required herein. (Ord. 76-168; 1968 Code § 3-101)

7-2-1103: NOTICE OF TAX LIEN: If any taxes, penalty or interest imposed by this Article and shown by return filed by a taxpayer or as shown by assessments duly made as provided herein, are not paid within five (5) days after the same are due,

the Director of Finance shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof and that the City claims a first and prior lien therefor on the real and tangible personal property of the taxpayer. (Ord. 76-168; 1968 Code § 3-101)

7-2-1104: FORM OF NOTICE AND FILING OF

LIEN: Such notice shall be on forms prepared by the Director of Finance and shall be verified by him or his authorized agent, and may be filed in the office of the Clerk and Recorder of any county in this State in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create a lien on such property in that county and constitute notice thereof. After said notice has been filed, or concurrently therewith or at any time when taxes due are unpaid, whether such notice be filed or not, the Director of Finance may issue a distraint warrant as provided herein. (Ord. 76-168; 1968 Code § 3-101)

7-2-1105: TRANSACTIONS, COMMODITIES SUBJECT TO TAX LIENS:

- A. **Business Purchases.** If the purchaser of a business or stock of goods shall fail to withhold the required amount of purchase money, (as required by Section 7-2-605) and the tax shall be due and unpaid after the ten (10) day period allowed, he, as well as the seller, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, any person who takes any stock of goods or business fixtures of or used by any retailer under lease, title-retaining contract or other contract arrangement, by purchase, foreclosure sale, or otherwise, takes same subject to the lien for any delinquent sales and use taxes owed by such seller, and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of the property so taken or acquired.

- B. Construction Materials. The full amount of any tax due and not paid for lumber, fixtures or any other building materials and supplies, together with penalties and interest thereon as herein provided, shall constitute a lien upon the real property benefited by such work. The Director of Finance is hereby authorized to file a notice of such lien with the County Clerk and Recorder of El Paso County.
- C. Personal Property Affixed to Real Property. The full amount of unpaid taxes arising from and required to be reported on personal property affixed to real property under this Article together with interest and penalties, shall constitute a first and prior lien on said real property and any proceeds therefrom, which lien shall have precedence over all other liens of whatsoever kind and nature except as to liens for general taxes created by State law and except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice of tax lien on the property of the taxpayer other than on the goods, stock in trade and business fixtures of such taxpayer.
- D. Consignments Subject to Tax Lien. The liens hereby created on merchandise shall extend not only to any and all merchandise belonging to the retailer who is in default on payment of the sales and use tax but also to any merchandise held by him on consignment; provided, however, if said retailer applies to the Director of Finance for permission to separate the tax accounts of merchandise held on consignment from merchandise owned by the retailer, the Director of Finance may grant such permission on condition that the merchandise owned by the retailer is physically separated from merchandise held on consignment in a manner satisfactory to the Director of Finance, and that sales and tax records of the merchandise held on consignment be kept separate from the sales and tax records of goods owned by the retailer, also in a manner satisfactory to the Director of Finance.

If the merchandise be so segregated and the records so kept separate, the tax on sales of items of merchandise owned by the retailer shall not be a lien on the merchandise held on consignment, but the tax on sales of items

- D) held on consignment shall be a lien on the merchandise so held and also a lien on the merchandise, furniture and fixtures, tools and equipment owned by the retailer.

If the retailer holds merchandise on consignment by different consignors he may, with the approval of the Director of Finance, separate the different consignments for lien purposes and keep separate tax and sales tax records thereof and the only lien for sales tax on any consignment shall be the lien on sales of items out of such consignment.

A sale at retail out of a stock of merchandise in the regular course of business shall release the item or items sold from the sales tax lien hereby created, but newly acquired merchandise shall come and remain under such lien until sold at retail or until such tax is paid.

- E. Status of Unpaid Tax in Bankruptcy and Receivership. When the business or property of any taxpayer subject to this Article shall be placed in a receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for property or State taxes, all taxes, penalties, and interest imposed by this Article shall constitute a first, prior and preferred lien against all the property of said taxpayer, except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights shall have attached prior to the filing of the notice as hereinafter provided on the property of the taxpayer.

However, the goods, stock in trade, cash, deposits, accounts receivable, and business fixtures of such taxpayer shall not be subject to the above-stated exception and said taxes, penalties and interest shall be and remain a first, prior and preferred lien against said property of taxpayer.

No sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this Article under process or order of any court, when that property is subject to a prior recorded City tax lien, except after notice of the sale date is given to the City. If there be any such taxes due owing and unpaid, it shall be the duty of such officer to first pay the amount

- E) of said taxes out of the proceeds of such sale before making payment of any moneys to any judgment creditor or any other claimants of whatsoever kind or nature except the costs of the proceedings and other pre-existing claims or liens as above provided. (Ord. 76-168; 1968 Code § 3-101)

7-2-1106: CITY A PARTY TO TITLE ACTIONS FOR DETERMINATION OF LIENS:

In any action affecting the title to real estate or the ownership or rights to possession of personal property the City may be made a party for the purpose of obtaining a judgment or determination of its lien upon the property involved therein. (Ord. 76-168; 1968 Code § 3-101)

7-2-1107: FILING AND RELEASE OF LIEN: Any employee, agent, or representative of the Director to whom a warrant has been issued, pursuant to Section 7-2-1201 of this Article may serve a notice of lien in such forms as the Director may prescribe upon the person in possession of any personal property or rights to property belonging to the taxpayer, and if not previously recorded such lien shall be effective as to such property or interest from the date of such service. The Director may release said lien as to all or any part of the property or any interest therein subject to such lien upon such terms as he may deem proper. (Ord. 76-168; 1968 Code § 3-101)

7-2-1108: CERTIFICATE OF DISCHARGE; VALUES DETERMINED:

- A. Certificate of Discharge of Property Subject to Lien. If any property, real or personal, shall be subject to a lien for the payment of any tax due the City, the Director may issue a certificate of discharge of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect to such tax and the amount of all prior liens upon such property.
- B. Certificate of Discharge to Part of Property. If any property, real or personal, shall be subject to a lien for the payment of any tax due the City, the Director may issue a certificate of discharge of any part of the property subject to

- B) the lien if there be paid over to the Director in part satisfaction of the liability in respect to such tax an amount determined by the Director, which shall not be less than the value, as determined by him, of the interest of the City in the part to be so discharged.

- C. How Values Determined. In determining such values, the Director shall give consideration to the fair market value of the part to be so discharged and to such lien or liens thereon as shall have priority over the lien of the City.

- D. Certificate of Release Conclusive. A certificate of release or of partial discharge issued under this Part shall be held conclusive that the lien of the City upon the property released therein is extinguished, but shall not extinguish nor release any portion of the lien property not specified in the release. (Ord. 76-168; 1968 Code § 3-101)

CHAPTER 7 TAXATION

ARTICLE 2 SALES AND USE TAX

PART 12 METHODS OF ENFORCING COLLECTION

SECTION:

7-2-1201: Foreclosure by Distraint
 7-2-1202: Jeopardy Assessment
 7-2-1203: Recovery of Unpaid Tax
 7-2-1204: Compromise

7-2-1201: FORECLOSURE BY DISTRAINT: Liens created hereunder may be foreclosed by seizing under distraint warrant and selling so much of said merchandise, furniture and fixtures, tools and equipment, or other property not otherwise excluded, as may be necessary to discharge said liens.

A. When Distraint Issued. When any of the subparagraphs of this subsection are met, the Director or his authorized representative may issue a warrant directed to any employee, agent, or representative of the Department of Finance, sometimes in this Section referred to collectively as "agent" or "revenue collector", commanding him to distraint, seize, and sell the personal property of the taxpayer except such personal property as is exempt from execution and sale by any Statute of this State for the payment of the tax due together with penalties and interest accrued thereon and costs of execution.

1. When any deficiency in tax is not paid within ten (10) days from the mailing of notice of determination, assessment and demand for payment therefor and no hearing has been requested and no appeal from such deficiency assessment has been docketed with any district court of this State within said period; or

2. When any other amount of tax, penalty or interest is not paid within ten (10) days from the mailing of assessment and demand for payment thereof; or,

3. Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in Section 7-2-1202.

B. The Director, his authorized representative or agent may apply to any judge of the Municipal court for a warrant authorizing the Director, his authorized representative or agent to search for and seize property located within the City limits for the purpose of enforcing the collection of sales and use taxes under this Chapter. Municipal court judges shall issue such warrant after the Director, his authorized representative or agent demonstrates that:

1. The premises to which entry is sought contain property that is subject to levy and sale for taxes due; and

2. At least one of the preconditions of the subparagraph A of this Section has been satisfied, provided that if the Director, his authorized representative or agent has declared a jeopardy assessment under Section 7-2-1202, he sets forth the reasons that collection of the tax will be jeopardized.

3. The procedures to be followed in issuing and executing a warrant pursuant to this subsection shall comply with rule 241(C) and (D) of the Colorado Municipal Court Rules of Procedure, provided that an officer authorized by law under rule 241(C) and (B) shall include the Director, his authorized representative or agent.

4. The taxpayer may contest a warrant previously issued under the procedure provided by rule 241(E) of the Colorado Municipal Court Rules of Procedure, except that no proceeding to contest such warrant may be brought after five (5) days prior to the date fixed for sale of the distrained property.

C. Notice of Distraint Seizure. The agent charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the agent making such distraint, shall be left with the owner or possessor, at his usual place of abode with some member of his family over the age of eighteen (18) years, or at his usual place of business with his stenographer, bookkeeper, or

- C) chief clerk, or if the taxpayer is a corporation, shall be left with any officer, manager, general agent or agent for process, with a note of the sum demanded and the time and place of sale; and shall forthwith cause to be published a notice of the time and place of sale, together with a description of the property to be sold, in some newspaper within the county wherein distraint is made or, in lieu thereof and in the discretion of the Director, the agent shall cause such notice to be publicly posted at the courthouse of the county wherein such distraint is made and copies thereof to be posted in at least two (2) other public places within said County.
- D. Procedure for Sale. The time fixed for the sale shall be not less than ten (10) days nor more than sixty (60) days from the date of such notification to the owner or possessor of the property and the publication or posting of such notices. Said sale may be adjourned from time to time by said agent if he deems it advisable but not for a time to exceed in all ninety (90) days from the date first fixed for the sale. When any personal property is advertised for sale under distraint as aforesaid, the agent making the seizure shall proceed to sell such property at public auction, offering the same at not less than a fair minimum price including the expenses of making the seizure and of advertising the sale, and if the amount bid for the property at the sale is not equal to the fair minimum price so fixed, the agent conducting the sale may declare the same to be purchased by him for the City. The property so purchased may be sold by the agent under such regulations as may be prescribed by the Director.
- E. Recovery of Property by Owner. In any case of distraint for the payment of taxes, the goods, chattels or effects so distrained shall be restored to the owner or possessor if, prior to the sale, the amount due is paid together with the fees and other charges, or may be redeemed by any person holding a security interest or other evidence of right of possession.
- F. Certificate of Sale; Evidence of Purchase. In all cases of sale, the agent making the sale shall issue a certificate of sale to each purchaser, and such certificate shall be prima facie evidence of the right of the agent to make such sale and conclusive evidence of the regularity of his proceedings in making the sale; and shall transfer

- F) to the purchaser all right, title and interest of such delinquent taxpayer in and to the property sold; and where such property consists of certificate of stock in the possession of the agent, the certificate of sale shall be notice, when received, to any corporation, company, or association of said transfer, and said certificate of such sale shall be authority for such corporation, company, or association to record the transfer on its books and records; and where the subject of sale is securities or other evidences of debt, in the possession of the agent, the certificate of sale shall be good and valid evidence of title in the person holding the same as against any other person. Any surplus remaining above the taxes, penalties, interest, costs and expenses of making the seizure and of advertising the sale, shall be returned to the owner or such other person having a legal right thereto, and, on demand, the Director shall render an account in writing of the sale. (Ord. 76-168; Ord. 86-55; 1968 Code § 3-102)

7-2-1202: JEOPARDY ASSESSMENT:

- A. Jeopardy Enforcement. If the Director of Finance finds that collection of the tax will be jeopardized by delay, in his discretion he may declare the taxable period immediately terminated, determine the tax and issue notice and demand for payment thereof; and, having done so, the tax shall be due and payable forthwith and the Director of Finance may proceed immediately to collect such tax.
- B. Immediate Enforcement Action. In any other case wherein it appears that the revenue is in jeopardy, the Director may immediately issue demand for payment; and, regardless of the provisions of this Article, the tax shall be due and payable forthwith and in his discretion the Director of Finance may proceed immediately to collect said tax.
- C. Security for Payment. Collection under either subsection A or B of this Section may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Director of Finance. (Ord. 76-168; 1968 Code § 3-103)

7-2-1203: RECOVERY OF UNPAID TAX:

- A. The Director of Finance may also treat any such taxes, penalties or interest due and payable as a debt due the City from the retailer or other person.
 - B. In case of failure to pay the taxes or any portion thereof, or any penalty or interest thereon, when due, the Director of Finance may recover at law the amount of such taxes, penalties and interest in any county or district court of the county wherein the taxpayer resides or has his place of business, or in said courts in El Paso County.
 - C. The return of the taxpayer or the assessment made by the Director of Finance, as herein provided, shall be prima facie proof of the amount due.
 - D. The City Attorney is hereby authorized upon request by the Director of Finance to commence any legal action or suit for the recovery of the tax due under this Article. (Ord. 76-168; 1968 Code § 3-104)
- B) 3. The amount paid in accordance with the terms of the compromise. (Ord. 76-168; 1968 Code § 3-105)

7-2-1204: COMPROMISE:

- A. Compromise Limitation. The Director or his delegate may compromise to the extent of one thousand dollars (\$1,000.00) any civil or criminal case arising under this Article, prior to reference to the City Attorney's office for prosecution or defense; and the City Attorney or his delegate shall, upon the written direction of the Director, compromise any such case after reference to the City Attorney's office for prosecution or defense.
- B. Compromise Record. Whenever a compromise, in value or valuation, of one thousand dollars (\$1,000.00) or less is made by the Director or his delegate in any case, there shall be placed on file in the office of the Director or his delegate the opinion of the Director with his reasons therefor, which may include financial inability of the taxpayer to pay a greater amount, with a statement of:
 - 1. The amount of tax assessed;
 - 2. The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed; and

*CHAPTER 7 TAXATION***ARTICLE 2 SALES AND USE TAX***PART 13 SALES AND USE TAX CAPITAL IMPROVEMENT FUND
TRANSFER PROVISIONS***SECTION:**

7-2-1301: Transfer of Revenues

7-2-1302: Effective Dates of Section 7-2-1301

7-2-1301: TRANSFER OF REVENUES: There shall be transferred to the Sales and Use Tax Capital Improvement Fund established under Part 11 of Article 3 of Chapter 6 of the Code, twenty percent (20%) of all revenue collected pursuant to Article 2 of Chapter 7 of the Code and twenty percent (20%) of all revenue collected pursuant to Article 7 of Chapter 7 of the Code. The revenues thus collected shall be transferred to the Sales and Use Tax Capital Improvement Fund by the City Controller during the month following the month in which the revenues are collected. (Ord. 84-27)

7-2-1302: EFFECTIVE DATES OF SECTION

7-2-1301: Section 7-2-1301 shall become effective of June 1, 1984 and shall apply to all revenues collected pursuant to Article 2 of Chapter 7 of the Code and Article 7 of Chapter 7 of the Code commencing with the revenues collected during May, 1984. Section 7-2-1301 shall have no applicability to any revenues collected after May 1, 1989 pursuant to Article 2 of Chapter 7 of the Code and Article 7 of Chapter 7 of the Code. (Ord. 84-27)

CHAPTER 7 TAXATION

ARTICLE 3 TELEPHONE UTILITY OCCUPATION TAX

SECTION:

- 7-3-101: Purpose of Tax
- 7-3-102: Definitions
- 7-3-103: Levy of Tax
- 7-3-104: Time of Payment of Tax
- 7-3-105: Filing Statement
- 7-3-106: Inspection of Records
- 7-3-107: Failure to Pay or File
- 7-3-108: Refunds
- 7-3-109: Administrative Hearings
- 7-3-110: Judicial Review

7-3-101: **PURPOSE OF TAX:** The tax provided for herein is upon the affected occupations and businesses in their performance of local functions and is not a tax upon those functions relating to interstate commerce. The tax herein provided shall be in lieu of all other occupation taxes, or taxes on the privilege of doing business within the City, on any telephone utility subject to the provisions of this Article; provided nothing contained herein shall be construed as a grant of any franchise rights or privileges or construed as establishing an income tax. (Ord. 85-257)

7-3-102: **DEFINITIONS:** The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicate otherwise, or unless such meaning is excluded by express provision:

DIRECTOR OF FINANCE, DIRECTOR: The Director of Finance of the City, or his authorized representatives.

GROSS REVENUES: All revenues received by a telephone utility, from and in connection with the operation of a local exchange telephone service in the City.

TAXPAYER: A telephone utility which is subject to the provisions of this Article. (Ord. 85-257; Ord. 86-23)

7-3-103: **LEVY OF TAX:**

- A. There is hereby levied against every telephone utility which is engaged in the business of furnishing local exchange telephone service within the City a tax on the occupation and business of maintaining a local exchange telephone service to the inhabitants of the City. The amount of the tax levied shall be eight dollars and forty six cents (\$8.46) per telephone account per calendar year during 1986 and subsequent years unless amended.
- B. Each July, every telephone utility furnishing local exchange telephone service within the City shall provide such information as the City Controller may find necessary so as to determine the appropriateness of the annual levy. Recommendations of the Controller for amendment, if any, of the levy for the succeeding year shall be submitted to Council at the first meeting in August. (Ord. 85-257)

7-3-104: **TIME OF PAYMENT OF TAX:** The tax levied by this Article shall begin to accrue on the first day of January, 1986 and on the first day of each calendar year thereafter; each calendar year's tax shall be paid in twelve (12) equal monthly installments, each installment to be due and payable on the last day of each calendar month excluding Saturday, Sunday, and any applicable legal holiday. The tax shall be computed by multiplying the total number of telephone accounts of the telephone utility furnishing the local exchange telephone service as of the first day of January, 1986 by eight dollars and forty six cents (\$8.46) and as of the first day of each January occurring thereafter unless subsequently amended. (Ord. 85-257)

7-3-105: **FILING STATEMENT:** Every telephone utility providing local exchange telephone service subject to this Article shall file with the City Controller, in such form as the Controller may require, a statement showing the total number of telephone accounts for its local exchange telephone service provided within the corporate limits of the City as of the first day in January; the yearly gross revenue for services within the corporate limits of the City; and

and such other information as may be reasonably required by the City Controller. Such statements shall be filed on or before the last day in January excluding Saturday, Sunday, and any applicable legal holiday. (Ord. 85-257)

7-3-106: INSPECTION OF RECORDS: The City, its officers, agents or representatives shall have the right, at any reasonable time, to examine the books and records of any telephone utility which is subject to the tax imposed by this Article, and to make copies of the entries or contents thereof. (Ord. 85-257)

7-3-107: FAILURE TO PAY OR FILE:

- A. If any telephone utility subject to this Article fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such telephone utility to the City.
- B. If any officer, agent or manager of a telephone utility which is subject to the provisions of this Article shall fail, neglect or refuse to file any statement required by this Article or pay any tax or penalty within the time herein prescribed, such officer, agent or manager shall be punished, on conviction thereof, as provided in Section 1-2-101 of this Code; provided, that for each day after such statement, tax, or penalty becomes delinquent during which the said officer, agent or manager shall so fail, neglect or refuse to file such statement, a separate offense shall be deemed to have been committed. (Ord. 85-257)

7-3-108: REFUNDS:

- A. **Overpayments.** A refund shall be made or credit allowed for the tax overpaid by any taxpayer, after compliance with the following conditions precedent:
 - 1. Applications. Claims may be made for tax moneys paid in error or mistake where an overpayment results. Application for refund must be made within eighteen (18) months after the date of payment. The application must be made

- A) on forms prescribed and furnished by the City Controller, which forms shall contain such information as said Controller shall prescribe.

2. Examination of Applications. Upon receipt of such application, the Controller or his designee shall examine the same with all due speed and shall give notice in writing to the applicant of his decision thereon. (Ord. 85-257)

7-3-109: ADMINISTRATIVE HEARINGS:

- A. **Request for Hearing.** Any taxpayer may request a hearing on any proposed tax by reason of notice of determination, assessment and demand for payment or by reason of denial of his claim for refund, by application to the Director of Finance within ten (10) days of the mailing of a notice of deficiency, assessment and demand for payment or notice of denial of refund.
- B. **Contents of Petition.** Said petition shall be under oath of the taxpayer and shall set forth:
 - 1. The reasons why such hearing should be granted;
 - 2. The amount of tax disputed;
 - 3. Any requested changes;
 - 4. A complete description of documents and tax periods pertaining to the hearing; and
 - 5. The name, address, telephone number of said taxpayer.
- C. **Time and Place of Hearing.** The Director of Finance shall notify the taxpayer in writing of the time and place for such hearing ten (10) days prior thereto. In all cases, the hearing shall be held in Colorado Springs, Colorado.
- D. **Referee to Conduct Hearing.** The Director of Finance shall appoint an impartial referee to conduct a hearing. The referee shall not be any person who has previously ruled on the tax problem being petitioned to the Director. The referee is hereby authorized to administer oaths and take testimony. The taxpayer, at the hearing, may assert any facts, make any arguments and file any briefs and affidavits that he believes are pertinent to his cause.

- E. Referee May Adjust Tax Under Question. Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions at any hearing, the referee may modify or abate in full the tax, penalty and interest questioned at the hearing or may approve a refund.
- F. Hearing Determination Notices. Upon approval or rejection, in whole or in part, of the claim for refund or upon the finding by the referee that an assessment in whole or in part has been made properly or improperly against the taxpayer, the referee shall mail a hearing determination notice to the taxpayer setting forth the amount of claim for refund allowed or denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection of the petition, in whole or in part. Every decision of the referee shall be in writing and notice thereof shall be mailed to the taxpayer within twenty (20) days following the hearing.
- G. Determination in Lieu of Hearing. In lieu of a hearing before a referee, the taxpayer may, at his election, request a determination by the referee without a hearing and based upon written briefs and other written materials or documents as the taxpayer deems appropriate. The request for a determination in lieu of hearing must be filed within the same time period as a petition for a hearing before a referee. Any written materials submitted to the Director within the time provided, in apparent protest of a notice of denial of refund or notice of deficiency, assessment and demand for payment, shall be considered for all purposes the same as a request for and submission of materials for determination in lieu of a hearing. A referee appointed by the Director of Finance shall proceed to reconsider the deficiency in the same manner as if the written material submitted had been presented at a hearing before him. Within ten (10) days following the receipt of materials or a petition for determination in lieu of a hearing, a written hearing determination notice shall be mailed containing the referee's decision.
- H. Second Hearing.
 - 1. Within ten (10) days following the mailing of the hearing determination notice, the aggrieved taxpayer may appeal the referee's decision by petitioning for a second hearing to be conducted solely by the Director of Finance.

- H)
 - 2. The Director shall notify the taxpayer in writing of the time and place for such hearing ten (10) days prior thereto. In all cases the hearing shall be held in Colorado Springs, Colorado.
 - 3. The hearing shall be formally conducted with a verbatim record retained thereto.
 - 4. The Director may modify or abate in full the tax penalty and interest questioned at the hearing, or may approve, in whole or in part, the requested refund, as the evidence presented at the hearing justifies.
 - 5. Within twenty (20) days of the hearing, the Director shall issue a written final hearing determination notice.
- I. Time Limitation for Hearing Requests. After the expiration of ten (10) days from the mailing of the notice of determination, assessment and demand for payment, or of the denial of refund, if the tax has not been paid and if no request for hearing or determination in lieu of hearing has been requested, or no written brief has been filed by the taxpayer, then the notice of determination, assessment and demand for payment previously mailed, shall constitute a final assessment of the amount of the tax specified, together with interest, additions to tax and penalties, or the uncontested denial of refund shall constitute a final denial of refund, as the case may be, except only for such amounts as to which the taxpayer has timely filed a protest with the Director of Finance. (Ord. 85-257)

7-3-110: JUDICIAL REVIEW:

- A. The District Court within and for the County of El Paso shall review all determinations of the Director of Finance in administering the provisions of this Article under rule 106(a)(4) of the Colorado Rules of Civil Procedure as the same now provide or as may be hereafter amended.
- B. At the conclusion of the action, after appeal to the Appellate Court of Colorado or after the time for such appeal has expired, any funds that have been deposited with the City shall be, at the direction of the Court, either retained by the Director and applied against the deficiency or returned in whole or in part to the taxpayer with interest as prescribed, at one-half percent ($\frac{1}{2}\%$) per month. (Ord. 85-257)

CHAPTER 7 TAXATION

ARTICLE 4 CABLE TELEVISION OCCUPATION TAX

SECTION:

- 7-4-101: Purpose of Tax
- 7-4-102: Definitions
- 7-4-103: Levy of Tax
- 7-4-104: Time of Payment of Tax
- 7-4-105: Filing Statement
- 7-4-106: Inspection of Records
- 7-4-107: Failure to Pay or File
- 7-4-108: Compliance With Federal Law
- 7-4-109: Refunds
- 7-4-110: Administrative Hearings
- 7-4-111: Judicial Review

7-4-101: PURPOSE OF TAX: The tax provided for herein is upon the affected cable television systems or broadband telecommunications network in the performance of their local functions and is not a tax upon those functions relating to interstate commerce. The tax herein provided shall be in lieu of all other occupation taxes, or taxes on the privilege of doing business within the City, on any cable television system or broadband telecommunications network subject to the provisions of this Article; provided, nothing contained herein shall be construed as a grant of any franchise rights or privileges. (Ord. 85-238)

7-4-102: DEFINITIONS: The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

DIRECTOR OF FINANCE; DIRECTOR: The Director of Finance of the City, or his authorized representatives.

GROSS SUBSCRIBER REVENUES: All revenues received by a cable television system or broadband telecommunications network, its affiliates or subsidiaries from and in connection with the operation of the cable television system or broadband telecommunications network in the City.

TAXPAYER: A cable television system or broadband telecommunications network which is subject to the provisions of this Article. (Ord. 85-238; Ord. 86-23)

7-4-103: LEVY OF TAX:

- A. There is hereby levied against every cable television system and every broadband telecommunications network which is engaged in the business of furnishing cable television service within the City a tax on the occupation and business of maintaining a cable television system or broadband telecommunications network in the City and on supplying such services incident thereto to the inhabitants of the City. The amount of the tax levied shall be sixty one cents (\$0.61) per subscriber per calendar month during 1986 and subsequent years unless amended.
- B. Each July, every cable television system and broadband telecommunications network within the City shall provide such information as the City Controller may find necessary so as to determine the appropriateness of the annual levy. Recommendations of the Controller for amendment, if any, of the levy for the succeeding year shall be submitted to Council at the first meeting in August. (Ord. 85-238)

7-4-104: TIME OF PAYMENT OF TAX: The tax levied by this Article shall begin to accrue on the first day of January, 1986 and on the first day of each calendar month thereafter; each calendar month's tax shall be paid on or before the 10th day of the subsequent month and shall be computed by multiplying the total number of subscribers on the system on the first day of each calendar month occurring after the first Saturday, Sunday and any legal holiday in the month by sixty one cents (\$0.61) for each month during 1986 and subsequent years, unless amended. (Ord. 85-238)

7-4-105: FILING STATEMENT: Each cable television system and broadband telecommunications network subject to this Article shall file with the City Controller, in such form as the Controller may require, a statement showing the total number of subscribers for its cable television services provided within the corporate limits of the City; the monthly gross subscriber revenue for services within the corporate limits of the City; and such other information

as may be reasonably required by the City Controller. All information shall be computed as of the first day of each month occurring after the first Saturday, Sunday, and any legal holiday in the month of such statement shall be furnished to the City Controller no later than the 10th day of the subsequent month. (Ord. 85-238)

7-4-106: INSPECTION OF RECORDS: The City, its officers, agents or representatives shall have the right, at any reasonable time, to examine the books and records of any cable television system or broadband telecommunications system which is subject to the tax imposed by this Article, and to make copies of the entries or contents thereof. The City shall be provided a certified audit and financial statement by the cable television system or broadband telecommunications network, if the City deems this necessary. (Ord. 85-238)

7-4-107: FAILURE TO PAY OR FILE:

- A. If any cable television system or broadband telecommunications network subject to this Article fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent (10%) of the amount of taxes due, shall be and is hereby declared to be a debt due and owing from such cable television system or broadband telecommunications network to the City.
- B. If any officer, agent or manager of a cable television system or broadband telecommunications network which is subject to the provisions of this Article shall fail, neglect or refuse to file any statement required by this Article or pay any tax or penalty within the time herein prescribed, such officer, agent or manager shall be punished, on conviction thereof, as provided in Section 1-2-101 of this Code; provided, that for each day after such statement, tax, or penalty becomes delinquent during which the said officer, agent or manager shall so fail, neglect or refuse to file such statement, a separate offense shall be deemed to have been committed. (Ord. 85-238)

7-4-108: COMPLIANCE WITH FEDERAL LAW:

No tax imposed by this Article shall exceed the maximum allowed by Federal law. 47 USC §542. (Ord. 85-238)

7-4-109: REFUNDS:

- A. Overpayments. A refund shall be made or credit allowed for the tax overpaid by any taxpayer, after compliance with the following conditions precedent:
 - 1. Applications. Claims may be made for tax moneys paid in error or mistake where an overpayment results. Applications for refund must be made within eighteen (18) months after the date of payment. The application must be made on forms prescribed and furnished by the City Controller, which forms shall contain such information as said Controller shall prescribe.
 - 2. Examination of Applications. Upon receipt of such application, the Controller or his designee shall examine the same with all due speed and shall give notice in writing to the applicant of his decision thereon. (Ord. 85-238)

7-4-110: ADMINISTRATIVE HEARINGS:

- A. Request for Hearing. Any taxpayer may request a hearing on any proposed tax by reason of notice of determination, assessment and demand for payment or by reason of denial of his claim for refund, by application to the Director of Finance within ten (10) days of the mailing of a notice of deficiency, assessment and demand for payment or notice of denial of refund.
- B. Contents of Petition. Said petition shall be under oath of the taxpayer and shall set forth:
 - 1. The reasons why such hearing should be granted;
 - 2. The amount of tax disputed;
 - 3. Any requested changes;
 - 4. A complete description of documents and tax periods pertaining to the hearing; and
 - 5. The name, address, telephone number of said taxpayer.
- C. Time and Place of Hearing. The Director of Finance shall notify the taxpayer in writing of the time and place for such hearing ten (10) days prior thereto. In all cases the hearing shall be held in Colorado Springs, Colorado.

- D. Referee to Conduct Hearing. The Director of Finance shall appoint an impartial referee to conduct a hearing. The referee shall not be any person who has previously ruled on the tax problem being petitioned to the Director. The referee is hereby authorized to administer oaths and take testimony. The taxpayer, at the hearing, may assert any facts, make any arguments and file any briefs and affidavits that he believes are pertinent to his cause.
- E. Referee May Adjust Tax Under Question. Based on the evidence presented at any hearing or filed in support of the taxpayer's contentions at any hearing, the referee may modify or abate in full the tax, penalty and interest questioned at the hearing or may approve a refund.
- F. Hearing Determination Notices. Upon approval or rejection, in whole or in part, of the claim for refund or upon the finding by the referee that an assessment in whole or in part has been made properly or improperly against the taxpayer, the referee shall mail a hearing determination notice to the taxpayer setting forth the amount of claim for refund allowed or denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection of the petition, in whole or in part. Every decision of the referee shall be in writing and notice thereof shall be mailed to the taxpayer within twenty (20) days following the hearing.
- G. Determination in Lieu of Hearing. In lieu of a hearing before a referee, the taxpayer may, at his election, request a determination by the referee without a hearing and based upon written briefs and other written materials or documents as the taxpayer deems appropriate. The request for a determination in lieu of hearing must be filed within the same time period as a petition for a hearing before a referee. Any written materials submitted to the Director within the time provided, in apparent protest of a notice of denial of refund or notice of deficiency, assessment and demand for payment, shall be considered for all purposes the same as a request for and submission of materials for determination in lieu of a hearing. A referee appointed by the Director of Finance shall proceed to reconsider the deficiency in the same manner as if the written material submitted had been presented at a hearing

- G) before him. Within ten (10) days following the receipt of materials or a petition for determination in lieu of a hearing, a written hearing determination notice shall be mailed containing the referee's decision.
- H. Second Hearing.
 - 1. Within ten (10) days following the mailing of the hearing determination notice, the aggrieved taxpayer may appeal the referee's decision by petitioning for a second hearing to be conducted solely by the Director of Finance.
 - 2. The Director shall notify the taxpayer in writing of the time and place for such hearing ten (10) days prior thereto. In all cases the hearing shall be held in Colorado Springs, Colorado.
 - 3. The hearing shall be formally conducted with a verbatim record retained thereof.
 - 4. The Director may modify or abate in full the tax penalty and interest questioned at the hearing, or may approve, in whole or in part, the requested refund, as the evidence presented at the hearing justifies.
 - 5. Within twenty (20) days of the hearing, the Director shall issue a written final hearing determination notice.
- I. Time Limitation for Hearing Requests. After the expiration of ten (10) days from the mailing of the notice of determination, assessment and demand for payment, or of the denial of refund, if the tax has not been paid and if no request for hearing or determination in lieu of hearing has been requested, or no written brief has been filed by the taxpayer, then the notice of determination, assessment and demand for payment previously mailed, shall constitute a final assessment of the amount of the tax specified, together with interest, additions to tax and penalties, or the uncontested denial of refund shall constitute a final denial of refund, as the case may be, except only for such amounts as to which the taxpayer has timely filed a protest with the Director of Finance. (Ord. 85-238)

7-4-111: JUDICIAL REVIEW:

- A. The District Court within and for the County of El Paso shall review all determinations of the Director of Finance in administering the provisions of this Article under rule 106(a)(4) of the Colorado Rules of Civil Procedure as the same now provide or as may be hereafter amended.
- B. At the conclusion of the action, after appeal to the Appellate Court of Colorado or after the time for such appeal has expired, the funds deposited shall be, at the direction of the Court, either retained by the Director and applied against the deficiency or returned in whole or in part to the taxpayer with interest as prescribed herein, at one-half percent ($\frac{1}{2}\%$) per month. (Ord. 85-238)

CHAPTER 7 TAXATION

ARTICLE 5 COMMERCIAL STABLES ENTERTAINMENT TAX

SECTION:

- 7-5-101: Purpose of Tax
- 7-5-102: Definitions
- 7-5-103: Tax Levied, Rate
- 7-5-104: Remittance of Tax
- 7-5-105: Reports
- 7-5-106: Applicability of the City Sales and Use Tax Ordinance

7-5-101: PURPOSE OF TAX: The purpose of this commercial stable entertainment tax is to provide a fund to be used for the removal of excrement from hoofed animals owned or rented by the owners or operators of commercial stables from the City streets and public rights of way within the City. (Ord. 77-125; 1968 Code, § 3-201)

7-5-102: DEFINITIONS:¹

COMMERCIAL STABLE: Commercial stable shall be defined as any place where horses, mules, or other hoofed animals as defined in Section 11-1-101 of this Code, as amended, are kept and maintained for hire. (Ord. 77-125; 1968 Code, § 3-201)

7-5-103: TAX LEVIED, RATE:

- A. An entertainment tax is hereby levied, and this tax shall be collected and remitted by the owner or operator of a commercial stable, within or without the City, unless otherwise exempted herein, on the hire of any of the commercial stable's hoofed animals and on the sale of any and all rides on the commercial stable's hoofed animals.
- B. The entertainment tax collected and remitted by the owner or operator of the commercial stable shall be five percent (5%) of the price paid by or charged to the hirer of the commercial stable's hoofed animals, for the hire of those animals, and five percent (5%) of the price paid by or charged to the purchaser of any ride or rides on the commercial stable's

- B) hoofed animals. (Ord. 77-125; 1968 Code, § 3-201)

7-5-104: REMITTANCE OF TAX: The commercial stable entertainment tax shall be remitted monthly by the owner or operator of a commercial stable on or before the twentieth day of the calendar month following the last calendar month in which the tax should have been collected by the commercial stable owner or operator. The monthly remittance by the commercial stable owner or operator shall include all of the commercial stable entertainment tax that should have been collected by the commercial stable owner or operator during the preceding month. (Ord. 77-125; 1968 Code, § 3-201)

7-5-105: REPORTS: The owners or operators of nonexempt commercial stables shall file with their remittance of the commercial stable entertainment tax a report which shall state the number of rides sold during the preceding month on the hoofed animals kept or maintained by the commercial stable, the price paid or charged for each of those rides, the number of times the hoofed animals kept or maintained by the commercial stable were hired during the preceding month, the price paid or charged for each hire, the name and address of the commercial stable, and the name and address of the owner or operator of the commercial stable. Such report shall be dated and signed by the owner or operator of the commercial stable and shall state the amount of the tax collected or due the City during the preceding month and the amount of tax remitted with the report. (Ord. 77-125; 1968 Code, § 3-201)

7-5-106: APPLICABILITY OF THE CITY SALES AND USE TAX ORDINANCE: Sections 7-2-105, 7-2-106, 7-2-607, 7-2-905, 7-2-1002(b), 7-2-1007, and Sections 7-2-1202 through 7-2-1204 of this Chapter are hereby incorporated by reference as if set forth herein in full, subject to the following modifications:

- A. Section 7-2-105. Paragraph A. Delete "retailer" and insert "commercial stable owner or operator".

1. For definitions of general application, see also Section 1-1-203 of this Code.

- B. Section 7-2-105. Paragraph B. Delete "licensee" and insert "commercial stable owner or operator".
- C. Whenever the words "this Article" or "Article" appear in the sections herein incorporated, the words "this Article" or "Article" shall mean the City Commercial Stables Entertainment Tax Ordinance. (Ord. 77-125; 1968 Code § 3-201)

CHAPTER 7 TAXATION

ARTICLE 6 LODGERS, CAMPGROUNDS AND AUTOMOBILE RENTAL TAX

SECTION:

- 7-6-101: Title
- 7-6-102: Purpose
- 7-6-103: Definitions
- 7-6-104: Legislative Intent
- 7-6-105: Imposition of Tax, Rate
- 7-6-106: Payment of Tax
- 7-6-107: Special Fund Created
- 7-6-108: Applicability of City Sales
and Use Tax Ordinance
- 7-6-109: Exemptions
- 7-6-110: Citizens' Advisory Committee
- 7-6-111: Contractual Authority

National Sports Festivals
Pikes Peak Hill Climb
Pikes Peak or Bust Rodeo
Garden of the Gods Run
Fine Arts Center
Summer Symphony

The revenues from this tax shall not be spent by the City or any person or organization under contract with the City for the promotion of, or building or maintenance of, convention centers or auditoriums or other similar facilities. (Ord. 78-245; 1968 Code § 3-211)

7-6-101: **TITLE:** This Article may be known and cited as the City Lodgers and Automobile Rental Tax Ordinance. (Ord. 78-245; 1968 Code, § 3-210)

7-6-102: **PURPOSE:** The purpose of this tax shall be to attract visitors to the City and the Pikes Peak region. It is expected but not required that fifty percent (50%) of the revenues from this tax shall be spent for visitor promotion. Revenues not obligated under the terms of any contract entered into pursuant to Section 7-6-111 hereof may be used for the acquisition, construction, maintenance and operation of public works or public improvements which constitute in part visitor or tourist attractions. Such public works or public improvements shall include, but shall not be limited to:

The Garden of the Gods Park
North Cheyenne Canyon
Palmer Park
Bear Creek Park
Pulpit Rock Park
Rockrimmon Park

The revenues from this tax may also be used for such other tourist attractions which shall include, but shall not be limited to:

7-6-103: **DEFINITIONS:**¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

CAMPGROUND SPACE RENTAL: The transaction of furnishing a space or spaces or other accommodations to any person who, for consideration, uses, possesses or has the right to use or possess any space, spaces or other accommodations at any campground, recreational vehicle park, mobile home park or any other location within the City that provides for overnight campsites for the use of tents, recreational vehicles or other overnight camping.

LODGING: The transaction of furnishing rooms or accommodations to any person who for a consideration uses, possesses or has the right to use or possess any room, or rooms, in a hotel, apartment hotel, lodging house, motor hotel, guest house, guest ranch, or any other place that furnishes sleeping accommodations under any concession, permit, right of access, license to use, or other agreement or otherwise.

RECREATIONAL VEHICLE: A vehicle used for temporary habitation and used for travel, vacation and recreational purposes. The term "recreational vehicle" shall include travel trailers, collapsible camping trailers, camping trailers, motor homes, truck campers, pickup campers and any other vehicle used for overnight accommodation.

1. For definitions of general application, see also Section 1-1-203 of this Code.

VISITOR PROMOTION: The purchase, construction, lease and maintenance of offices or buildings specifically for visitor promotion and/or information purposes, expenditures for administration, salaries and other incidental expenses associated with such promotion, advertising, printing and publications and any other incidental expenses associated with such promotion, advertising, printing and publications and any other promotional practices customarily used for securing tourism for the City and the greater Pikes Peak region. (Ord. 78-245; Ord. 82-140; 1968 Code, §§ 3-211, 3-214)

7-6-104: LEGISLATIVE INTENT:

A. It is hereby declared to be the legislative intent of the City Council that for the purposes of this Article, every person who purchases in the City:

1. Any lodging,
2. Any automobile rental, or
3. Any campground space rental

of less than thirty (30) consecutive days, is exercising a taxable privilege. (Ord. 78-245; Ord. 82-140; 1968 Code, § 3-215)

7-6-105: IMPOSITION OF TAX, RATE:

A. There is hereby levied and there shall be collected and paid a tax by every person exercising the taxable privilege defined in Section 7-6-104 hereof for the privilege of purchasing in the City;

1. Any lodging, at the rate of two percent (2%) of the purchase price of lodging,
2. Any automobile rental, at the rate of one percent (1%) of the purchase price of automobile rental, or
3. Any campground space rental, at the rate of two percent (2%) of the purchase price of the campground space rental.

B. Notwithstanding the rate of tax imposed by subsection A above, and in order to avoid

B) fractions of pennies, the following brackets or percentage calculation method shall be applicable to all taxable transactions:

1. Lodging and Campground Space Rental..

Sales of \$0.01 to and including \$0.17	No tax
Sales of \$0.18 to and including \$0.74	1¢
Sales of \$0.75 to and including \$1.00	2¢
Sales in excess of \$1.00	2¢ on each full \$1.00 of the sale price plus the tax shown on the above schedule for the applicable fractional part of a dollar of each such sale price

In the event the percentage calculation method is used by the vendor, the tax shall be calculated to the nearest penny with all fractions of one cent (\$.01) of fifty percent (50%) or greater being raised to the next whole penny. All calculated fractions of one cent (\$.01) of a lesser amount than fifty percent (50%) shall be rounded to the next lesser penny amount.

2. Automobile Rental.

Sales of \$0.01 to and including \$0.50	No tax
Sales of \$0.51 to and including \$1.00	1¢
Sales in excess of \$1.00	1¢ on each full \$1.00 of the sale price plus the tax shown on the above schedule for the applicable fractional part of a dollar of each such sale price

In the event the percentage calculation method is used by the vendor, the tax shall be calculated to the nearest penny with all fractions of one cent (\$.01) of fifty percent

- B) (50%) or greater being raised to the next whole penny. All calculated fractions of one cent (\$.01) of a lesser amount than fifty percent (50%) shall be rounded to the next lesser penny amount. (Ord. 78-245; Ord. 82-140; 1968 Code, § 3-216)

7-6-106: PAYMENT OF TAX: Every vendor irrespective of Section 7-6-105 shall be liable and responsible for the payment of an amount equivalent to two percent (2%) of all sales made by him of lodging, and campground space rental, and one percent (1%) of all automobile rentals taxable by this Article. (Ord. 78-245; Ord. 82-140; 1968 Code, § 3-218)

7-6-107: SPECIAL FUND CREATED: The revenues derived from this tax, less its cost of collection and administration, shall be placed in a special fund separate and distinct from the City's General Fund. Expenditures from such fund shall be made only for the purposes as set forth in Section 7-6-102. (Ord. 78-245; 1968 Code, § 3-212)

7-6-108: APPLICABILITY OF CITY SALES AND USE TAX ORDINANCE: All of the provisions of the City Sales and Use Tax Ordinance, Article 2 of this Chapter, are hereby incorporated by reference as if set forth herein in full, subject to the following modifications:

- A. Section 7-2-101. Delete Section 7-2-101.
- B. Section 7-2-102. Delete Section 7-2-102.
- C. Sections 7-2-201 through 7-2-203 inclusive. Delete Sections 7-2-201 through 7-2-203 inclusive.
- D. Section 7-2-602A. Delete Section 7-2-602A.
- E. Whenever the words "this Article" or "Article" appear in the sections herein incorporated, the words "this Article" or "Article" shall mean the City Lodgers and Automobile Rental Tax Ordinance. (Ord. 78-245; 1968 Code, § 3-213)

7-6-109: EXEMPTIONS: There shall be exempt from the provisions of this Article the following:

- A. The purchase and sale of lodging to any occupant who is a permanent resident of any hotel, apartment hotel, lodging house, motor hotel, guest house or guest ranch, and who enters into or has entered into a written agreement for occupancy of a room or rooms or accommodations for a period of at least thirty (30) consecutive days.
- B. The purchase and sale of any campground space rental for a period of at least thirty (30) consecutive days.
- C. Any rental of an automobile to a person who enters into or has entered into a written agreement for the leasing or rental of an automobile for a period of at least thirty (30) consecutive days.
- D. Vehicles licensed as trucks, trailers, motorcycles or motor vehicles other than those commonly recognized as passenger cars.
- E. All sales consummated prior to one minute after twelve o'clock (12:01) A.M. February 1, 1979. (Ord. 78-245; Ord. 82-140; 1968 Code, § 3-217)

7-6-110: CITIZENS' ADVISORY COMMITTEE: The City Council is hereby authorized to appoint a Citizens' Advisory Committee to make recommendations to the City concerning the expenditures of any revenue derived by this Article. (Ord. 78-245; 1968 Code, § 3-219)

7-6-111: CONTRACTUAL AUTHORITY: The City is hereby authorized to contract with any person to effectuate the purposes of this Article provided that any such contractor shall be paid for services rendered only as revenues are received under the provisions of this Article. (Ord. 78-245; 1968 Code, § 3-220)

CHAPTER 7 TAXATION

ARTICLE 7 MOTION PICTURE THEATER ADMISSIONS TAX

PART 1 TAX IMPOSED

SECTION:

- 7-7-101: Title
- 7-7-102: Legislative Intent
- 7-7-103: Definitions
- 7-7-104: Excise Tax Based on Admissions
- 7-7-105: Applicability of City Sales and Use Tax Ordinance
- 7-7-106: Exempt Transactions
- 7-7-107: Refund, Complimentary Admissions
- 7-7-108: Responsibility for Collection and Remittance of Tax and Licensing
- 7-7-109: Special Accounting
- 7-7-110: Unlawful Acts

7-7-101: **TITLE:** This Article may be known and cited as the City Motion Picture Admissions Tax Ordinance. (Ord. 79-223; 1968 Code, § 3-300)

7-7-102: **LEGISLATIVE INTENT:** It is hereby declared to be the legislative intent of the City Council that on and after the effective date of this Article, every person who pays to gain admission or access to a performance of a motion picture in the City that is open to the public shall pay the tax imposed by this Article, and every person, whether owner, lessee, or operator who charges or causes to be charged admission to any such performance of a motion picture shall collect the tax imposed by this Article. (Ord. 79-223; 1968 Code, § 3-301)

7-7-103: **DEFINITIONS:**¹ When not clearly otherwise indicated by the context, the following terms, words and phrases as used in this Article shall have the following meanings:

ADMISSIONS TAX: The tax imposed by Section 7-7-104 of this Article.

OPEN TO THE PUBLIC: Any place or event the admission or access to which is open to members of the public upon payment of a charge or fee.

THEATER OPERATOR: Any person, whether owner, operator, lessee or any other person who charges or causes to be charged admission to a performance of a motion picture theater open to the public. (Ord. 79-223; 1968 Code, §§ 3-303, 3-304, 3-305)

7-7-104: **EXCISE TAX BASED ON ADMISSIONS:**
On and after the effective date of this Article,² there is hereby levied and shall be paid and collected an excise tax of two and one-half percent (2½%) on the price paid to gain admission or access to any performance of a motion picture in the City which is open to the public. Said excise tax is in addition to all other taxes imposed by law. (Ord. 79-223; Ord. 84-27; 1968 Code, § 3-302)

7-7-105: **APPLICABILITY OF THE CITY SALES AND USE TAX ORDINANCE:**
The following provisions of the City Sales and Use Tax Ordinance, Article 2 of this Chapter, are hereby incorporated by reference with the following modifications as if set forth herein in full:

- A. The definitions of Director of Finance, Person, Resident and School in Section 7-2-104.
- B. Sections 7-2-105 and 7-2-106.
- C. Sections 7-2-501 through 7-2-506 inclusive. Delete Section 7-2-501A.
- D. Section 7-2-607.
- E. Sections 7-2-701 through 7-2-704 inclusive.
- F. Sections 7-2-801 through 7-2-804 inclusive, Sections 7-2-806 through 7-2-808 inclusive, Section 7-2-810. Delete Section 7-2-801A.

1. For definitions of general application, see also Section 1-1-203 of this Code.

2. This Article became effective April 1, 1984.

- G. Sections 7-2-901 through 7-2-905 inclusive.
- H. Sections 7-2-1001 through 7-2-1006 inclusive.
- I. Sections 7-2-1101 through 7-2-1108 inclusive.
- J. Sections 7-2-1201 through 7-2-1204 inclusive.
- K. Whenever the word "tax" appears in the provisions of Article 2 incorporated herein, "tax" shall include the admissions tax as imposed by this Article.
- L. Whenever the word "taxpayer" appears in the provisions of Article 2 incorporated herein, "taxpayer" shall mean any person obligated to account to the Director of Finance for taxes collected or from whom a tax is due, or against whom a deficiency is being asserted, and shall include a theater operator or any other person required to pay or collect the admissions tax.
- M. Whenever the words "this Article" or "Article" appear in the sections herein incorporated, the words "this Article" or "Article" shall mean the City Motion Picture Admissions Tax Ordinance.
- N. Whenever the words "retailer" or "vendor" appear in the provisions of Article 2 incorporated herein, "retailer" or "vendor" shall be deemed to include a theater operator, or any other person required to collect the admissions tax.
- O. Whenever the words "license", "licensee" or "retailer and consumer license" appear in the provisions of Article 2 incorporated herein, "license", "licensee" or "retailer and consumer license" shall be deemed to include any transaction or person subject to this Article.
- P. Whenever the words "Sales Tax Division" or "Sales Tax Department" appear in the provisions of Article 2 incorporated herein, "Sales Tax Division" or "Sales Tax Department" shall be deemed to include any proceedings under this Article. (Ord. 79-223; 1968 Code, § 3-306)

7-7-106: EXEMPT TRANSACTIONS: The following persons, including theater

operators, are exempt from the payment or collection of motion picture theater admissions taxes levied by this Article:

- A. The United States government and the State of Colorado, and the political subdivisions thereof, in the conduct of their governmental functions;
- B. Religious, charitable and eleemosynary organizations in the conduct of their religious, charitable, and eleemosynary functions, provided that a letter of exemption from the City is possessed by such organization;
- C. A school other than a school held or conducted for private or corporate profit in the conduct of its educational functions, provided that a letter of exemption from the City is possessed by such school. (Ord. 79-223; 1968 Code, § 3-307)

7-7-107: REFUND, COMPLIMENTARY ADMISSIONS:

- A. Refunds. In the event that an admission price is refunded for any reason either before or after an event has taken place, the tax is not applicable and shall be refunded along with the admission price.
- B. Free or Complimentary Admissions, Admissions at Reduced Charges. The providing of free passes, complimentary admission tickets or otherwise where no admission price is charged or paid shall exempt said person from payment of the admission tax; however, in the event that a reduced charge for admission is made, whether for a pass, complimentary admission or otherwise, the tax imposed in this Article is applicable to the amount of such charge. (Ord. 79-223; 1968 Code, §§ 3-308, 3-309)

7-7-108: RESPONSIBILITY FOR COLLECTION AND REMITTANCE OF TAX AND LICENSING:

- A. License to Collect Tax. Any theater operator who has obtained a sales tax license by the City shall not be required to obtain separate admissions tax license. The sales tax license

- A) obtained by said theater operator shall be a license to collect the admissions tax under the provisions of this Article. If no sales tax license is obtained by said theater operator, then a separate license shall be issued by the City for the collection of admissions tax by the theater operator.
- B. Responsibility for Collection and Remittance of Tax. Every theater operator shall be liable for the collection and remittance of the tax provided for in Section 7-7-104 of this Article.
- C. Responsibility for Filing Return. Every theater operator shall file a return as prescribed herein with the Director of Finance on or before the twentieth day of the month for the preceding month or months on the report, and remit an amount equivalent to said two percent (2%) in the amount provided in Section 7-7-104 of this Article. (Ord. 79-223; 1968 Code, § 3-310)

7-7-109: **SPECIAL ACCOUNTING:** Any motion picture theater subject to the tax imposed by this Article, may include in the admission price the tax levied on the charge or price for admission to or access to the performance of any motion picture; provided, that no such motion picture theater shall advertise or hold out to the public in any manner directly or indirectly, that such tax is not included as part of the price or charge paid for admission to or access to any performance of a motion picture. No such motion picture theater shall gain any benefit from the collection or payment of such tax except the permitted vendors' fee. (Ord. 79-223; 1968 Code § 3-311)

7-7-110: **UNLAWFUL ACTS:** It shall be unlawful for any theater operator or other person subject to the tax levied by this Article to:

- A. Fail to make any required return by the due date,
- B. Make any false or fraudulent return,
- C. Make any false statements in any return,
- D. Fail to make payment to the Director of Finance by the due date of the taxes collected or due the City, or any interest or penalty due the City,
- E. Evade the collection or payment of the tax collected or due the City, or the payment of interest or penalty due the City,
- F. Fail to pay by the due date such tax, interest or penalty, or,
- G. Aid or abet another in any attempt to evade payment of such tax, interest or penalty,
- H. To issue to the City a check in payment of the tax collected or due the City or in payment of penalty or interest due the City, which check is dishonored by the drawee of the check. In any prosecution for a violation of this subsection, introduction of the check dishonored by the drawee, bearing notice of such dishonor from the drawee, shall constitute in evidence a prima facie showing that such check was issued by the drawer at a time when the drawer had on deposit with the drawee insufficient funds to allow the drawee to honor the check on presentment. Ord. 79-223; Ord. 83-112; 1968 Code, § 3-312)

CHAPTER 8
BUSINESS AND LICENSE REGULATIONS

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CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 1 TITLE, PURPOSE AND DEFINITIONS

SECTION:

- 8-1-101: Title
 8-1-102: Purpose
 8-1-103: Definitions

8-1-101: **TITLE:** This Chapter shall be known and may be cited as the "General Licensing Code of the City of Colorado Springs, Colorado", (hereinafter "this Chapter") and shall be liberally construed in order that the true meaning and intent of this Chapter may be carried out. (Ord. 75-164; 1968 Code § 5-1)

8-1-102: **PURPOSE:** The purpose of this Chapter is to provide a uniform procedure for the issuance, suspension and revocation of regulatory and other business licenses issued by the City. The provisions of this Chapter shall only apply to licenses issued pursuant to this Chapter.¹ (Ord. 75-164; 1968 Code § 5-2)

8-1-103: **DEFINITIONS:**² The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision.

AGENCY: Includes departments, boards and commissions.

BUSINESS: Includes all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this City or anywhere else within its jurisdiction.

CHIEF OF POLICE: The Chief of Police of the City of Colorado Springs.

DEPARTMENT OF HEALTH or HEALTH DEPARTMENT: The Department of Health of El Paso County or its authorized employees.

INSIGNIA: Any tag, plate, badge, emblem, sticker, or any other kind of device which may be required for any use in connection with any license.

LICENSE: Includes the word permit whether relevant to any provision of this Chapter or other law or ordinance.

LICENSEE: Includes the words permittee or holder for any use or period of time of any similar privilege, or designated agent, whether relevant to any provision of this Chapter or other law or ordinance.

LICENSING OFFICER: The Licensing Officer of the City of Colorado Springs, who shall be the City Clerk or such person(s) as he shall designate to perform such function. The Licensing Officer is hereby authorized to act on behalf of the City Council in all matters relating to licensing except as otherwise provided in this Chapter.

PREMISES: Includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises. (Ord. 75-164; 1968 Code § 5-3)

1. See Chapter 7, Article 2 of this Code for sales tax licenses; see Chapter 16, Article 6 for building trades licenses and permits; see Chapter 9 for liquor licenses.

2. For definitions of general application, see Section 1-1-203 of this Code.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 2 LICENSING OFFICER

SECTION:

- 8-1-201: Office Created
- 8-1-202: Powers of Licensing Officer
- 8-1-203: Duties and Functions
- 8-1-204: Records Required

8-1-201: **OFFICE CREATED:** The office of Licensing Officer is hereby created. (Ord. 75-164; 1968 Code § 5-5)

8-1-202: **POWERS OF LICENSING OFFICER:** Except as otherwise provided, the Licensing Officer shall have full power to grant, renew, suspend during investigation, and revoke all licenses provided for in this Chapter, subject always to appeal to the City Council as hereinafter provided. (Ord. 75-164; 1968 Code § 5-6)

8-1-203: **DUTIES AND FUNCTIONS:** The Licensing Officer shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this Chapter, and shall:

- A. Make Rules. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Chapter.
- B. Adopt Forms. Adopt all forms and prescribe the information to be required therein.
- C. Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Chapter.

D. Obtain Endorsement. Submit all applications to appropriate City officials and agencies for their endorsements thereon as to compliance by the applicant with all City regulations which such officials and agencies are charged to enforce.

E. Investigate. Investigate or cause to be investigated the eligibility of any applicant for a license.

F. Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Chapter.

G. Administer Oaths; Issue Subpoenas. In conducting any investigation or hearing, the Licensing Officer or his designee is empowered to administer oaths and issue subpoenas. Compliance with any subpoena issued by the Licensing Officer may be enforced by application to the Municipal Court of the City, where enforcement may be in the same manner as a contempt of court is enforced. (Ord. 75-164; 1968 Code § 5-7)

8-1-204: **RECORDS REQUIRED:** The Licensing Officer shall keep a record of all licenses issued, setting forth the name of every licensee, the place of business licensed, if any, the residence of the licensee, and the residence of each of the individual members of the licensee firm, or of each of the directing officers of the licensee corporation, the kind and grade of license issued, and any other information deemed pertinent by the Licensing Officer. (Ord. 75-164; 1968 Code § 5-8)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 3 LICENSE REQUIREMENTS

SECTION:

- 8-1-301: License Required
- 8-1-302: One Act Constitutes Doing Business
- 8-1-303: Bond Requirements
- 8-1-304: Agents Responsible

sum, conditioned upon the faithful observance of all the terms of the provisions pertaining to the activity or enterprise so licensed. Such bond shall also be conditioned upon the payment of all fines, penalties, and costs that may be adjudged against such licensee for the violation of the terms of the provisions pertaining to the license. (Ord. 75-164; 1968 Code § 5-11)

8-1-301: LICENSE REQUIRED: It shall be unlawful for any person, either directly or indirectly, to conduct any activity or enterprise, or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license is required by this Chapter without a license therefor being first procured and kept in effect at all such times as required by this Chapter. (Ord. 75-164; 1968 Code § 5-9)

8-1-304: AGENTS RESPONSIBLE:

A. **Managing Agent.** The managing agent or resident agent of nonresidents engaging in any activity or enterprise in the City for which a license is required shall be personally responsible for compliance with this Chapter by their principals and the activities or enterprises they represent.

8-1-302: ONE ACT CONSTITUTES DOING BUSINESS: For the purposes of this Chapter, any person shall be deemed to be engaged in an activity or enterprise when he does one act within the City limits of:

B. **Agent for Process.** Each licensee, if a nonresident of the City, shall designate an agent resident in this City upon whom may be served any process, notice or order required or permitted under this Chapter. Failure to appoint a designated agent or to maintain a designated agent shall be grounds for suspension of any license issued under this Chapter until such agent is so designated.

- A. Selling any goods or services;
- B. Soliciting business or offering goods or services for sale or hire;
- C. Acquiring or using any vehicle or any premises in the City for purposes for which a license is required; or
- D. Performing any activity for which a license is required. (Ord. 75-164; 1968 Code § 5-10)

C. The managing agent and the agent for process may be the same person. (Ord. 75-164; 1968 Code § 5-12)

8-1-303: BOND REQUIREMENTS: Whenever the terms of the provisions applicable to a particular license require the posting of a bond, no license shall be issued, or if issued no license shall be effective, until the licensee or applicant shall furnish a good and sufficient bond with surety to be approved by the City Attorney in the prescribed

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 4 APPLICATIONS FOR LICENSE

SECTION:

- 8-1-401: Qualifications of Applicants
 8-1-402: Form of Applications
 8-1-403: Contents of Applications

8-1-401: QUALIFICATIONS OF APPLICANTS:

The general standards set out in this Section relative to the qualifications of every applicant for a City license shall be considered and applied by the Licensing Officer. The applicant shall:

- A. Good Moral Character. Be of good moral character. In making such determination the Licensing Officer shall consider:
1. License History. The license history of the applicant; whether such person, in previously operating in this or another locality under a license, has had such license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action.
 2. General Personal History. Such other facts relevant to the general personal history of the applicant as he shall find necessary to a fair determination of the eligibility of the applicant.
- B. No Obligations to City. Not be in default under the provisions of this Chapter or indebted or obligated in any manner to the City.
- C. Compliance with all City Regulations. Present certificates furnished by the appropriate officers or agencies to the effect that the proposed use of any premises is in compliance with all applicable City regulations including, by way of description and not of limitation, zoning, building and fire codes, and the like. (Ord. 75-164; 1968 Code § 5-15)

- 8-1-402: FORM OF APPLICATIONS:** All applications shall be written statements

upon forms provided by the Licensing Officer. The truthfulness of all statements upon such forms shall be sworn to by the applicant before a notary public or other oath-taking official of this State. In the event any person knowingly makes any false statement or omits any pertinent information on any application, such act or omission shall be grounds for rejection of such application or suspension and revocation of any license issued upon the basis of such false statement, and shall be grounds for prosecution for perjury. (Ord. 75-164; 1968 Code § 5-13)

- 8-1-403: CONTENTS OF APPLICATIONS:** The application for every license required by and issued under the authority of the City shall contain:

- A. The name of the person, firm or corporation desiring such license;
- B. The residence address of such applicant if an individual, of each of the individual members of such firm, if a partnership or association, and of each of the directing officers if a corporation;
- C. The kind of license desired, stating the business, trade or profession to be performed, practiced or carried on;
- D. The grade of license desired, if such licenses are divided into grades;
- E. The local street address, if any, where such business is to be carried on; the principal place of business if other than the local street address;
- F. The year for which such license is sought; and
- G. Any other relevant information required by the provisions pertaining to the particular license sought or any other relevant information required by the Licensing Officer. (Ord. 75-164; 1968 Code § 5-14)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 5 LICENSE FEES

SECTION:

- 8-1-501: Application Fees; Refund
- 8-1-502: Payment of License Fees; Refund
- 8-1-503: Partial Payment; Lost Licenses
- 8-1-504: Prorating Fees
- 8-1-505: Rebate
- 8-1-506: Receipts for Payment of Fees
- 8-1-507: Unpaid Fee Constitutes Debt
- 8-1-508: License Fees Enumerated

8-1-501: APPLICATION FEES; REFUND: All applications for licenses shall be accompanied by a five dollar (\$5.00) application fee unless otherwise specified. The Licensing Officer shall not accept an application for a license unless accompanied by the required application fee.

Application fees are charged to defray the expense of processing application for licenses and shall not be refunded to the applicant in the event the license is denied, the application is withdrawn, or for any other reason after the application is filed and the application fee paid; neither shall application fees be applied to or deducted from required license fees. (Ord. 75-164; 1968 Code §§ 5-16, 5-17)

8-1-502: PAYMENT OF LICENSE FEES; REFUND: Unless previously qualified for special license as hereinafter provided,¹ the license fee for every license issued under the authority of the City shall be payable in advance and shall accompany the application. Said fee shall be payable to the City or the Licensing Officer who shall endorse on the application such payment and issue his receipt therefor. The Licensing Officer shall not accept an application for a license unless accompanied by the required license fee. In the event the Licensing Officer disapproves the application for the license, the fee tendered hereunder shall be refunded, and the Licensing Officer shall initiate the refund procedure. (Ord. 75-164; 1968 Code § 5-18)

8-1-503: PARTIAL PAYMENT; LOST LICENSES:

- A. No partial payment shall be received by the Licensing Officer of any application fee or of any license fee, and the Licensing Officer is hereby prohibited from receiving any sum less than the full amount required by the terms of the provisions pertaining to the particular license sought.
- B. Whenever a license, permit, insignia or identification card is lost, the Licensing Officer is hereby authorized to replace the license, permit, insignia or identification card upon payment of a two dollar (\$2.00) fee to defray costs of replacement. (Ord. 75-164; 1968 Code § 5-19)

8-1-504: PRORATING FEES: Fees for licenses shall not be rebated or prorated for any reason except as provided in this Chapter. (Ord. 75-164; 1968 Code § 5-20)

8-1-505: REBATE: In the event that property whereon a licensed business or activity is situate is taken for public use or the improvements thereon destroyed by fire or other catastrophe to such an extent that the continuation in business is impractical, the license may terminate upon the election of the licensee and the license fee may be rebated in proportionate part to such fee as the number of months remaining in the license period, beginning with the first day of the month next following such termination; provided, however, in the event any license is suspended or revoked, no rebate shall be made. (Ord. 75-164; 1968 Code § 5-21)

8-1-506: RECEIPTS FOR PAYMENT OF FEES:
The Licensing Officer shall issue a receipt to the applicant for money paid in advance. Such receipt shall not be construed as constituting

¹ See Section 8-1-605 of this Article.

approval of the Licensing Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Chapter. (Ord. 75-164; 1968 Code § 5-22)

8-1-507: UNPAID FEE CONSTITUTES DEBT:

The amount of any unpaid fee, the payment of which is required by this Chapter, shall constitute a debt due the City. The City Attorney shall, at the direction of the Licensing Officer, institute civil suit in the name of the City to recover any such unpaid fee. Such remedy shall be cumulative and in addition to all other remedies and shall not bar or abate a prosecution in Municipal Court for any violation of this Chapter, nor bar or abate any action to suspend or revoke a license for nonpayment of the appropriate license fee. (Ord. 75-164; 1968 Code § 5-23)

8-1-508: LICENSE FEES ENUMERATED: The following enumerated fees set out the various fees for licenses in this Chapter. All fees are annual fees unless otherwise indicated:

(See following page for schedule of fees)

AMUSEMENT RIDES (§ 8-2-202)	
30-day license, per amusement ride	\$ 25.00
ANTIQUE STORES (§ 8-5-201), per year or any portion thereof	50.00
ASHES, HAULING (§ 8-3-503)	30.00
Plus \$25.00 for each truck or vehicle used for collection, per year or any portion thereof	
AUCTIONEERS (§ 8-4-101)	
Daily License, per day for each day auction in progress	5.00
Annual License, per year or any portion thereof	300.00
BILLIARD AND POOL TABLES, per table (§ 8-2-402)	15.00
CARNIVAL, per week or fraction thereof (§ 8-2-102)	300.00
CIRCUS, per week or fraction thereof (§ 8-2-102)	300.00
COIN-OPERATED MACHINES (§ 8-2-302)	
Non-Operator's License, per year or any portion thereof	30.00
Operator's License, per year or any portion thereof	500.00
Insignia, per device (§ 8-2-304), per year or any portion thereof	15.00
CONTRACT SECURITY AGENCY, per year or any portion thereof	
10 or fewer employees	25.00
11 or more employees	50.00
DANCES, PUBLIC, per day (§ 8-2-602)	10.00
EXTERMINATORS AND FUMIGATORS (§ 8-3-401), per year or any portion thereof	25.00
FOODSTUFFS, HUCKSTERS AND PEDDLERS OF (§ 8-4-302), per year or any portion thereof	30.00
FUMIGATORS AND EXTERMINATORS (§ 8-3-401), per year or any portion thereof	25.00
GAME ROOMS, per game room (§ 8-2-502), per year or any portion thereof	250.00
GARBAGE, HAULING OF (§ 8-3-503)	30.00
Plus \$25.00 for each truck or vehicle used for collection, per year or any portion thereof	
GOING OUT OF BUSINESS SALES (§ 8-6-101)	
30 Day License	50.00
60 Day License	100.00
90 Day License	150.00
30 Day Extension	50.00
HAULING ASHES, GARBAGE, REFUSE, TRASH AND RUBBISH (§ 8-3-503)	30.00
Plus \$25.00 for each truck or vehicle used for collection, per year or any portion thereof	

NOTE: Section numbers appearing in parentheses following the licensed occupation denote the location in this Chapter of regulations governing such occupation.

HUCKSTERS AND PEDDLERS OF FOODSTUFFS (§8-4-302), per year or any portion thereof	\$ 30.00
JUNK DEALERS, for each principal place of business (§ 8-5-102), per year or any portion thereof	25.00
Plus \$15.00 for each additional location wherein junk is kept, stored or sold	
Vehicles, each additional (§ 8-5-105B), per year or any portion thereof	25.00
MASSAGE PARLOR	
Massage Parlor or Establishment (§ 8-3-103), per year or any portion thereof	
Initial	300.00
Renewal	150.00
Massage Therapist, per year or any portion thereof	100.00
Apprentice Massage Therapist (§ 8-3-105B), per license period	50.00
MENAGERIE, per week or fraction thereof (§ 8-2-102)	300.00
PAWNBROKERS, for each location (§ 8-4-202), per year or any portion thereof	50.00
PEDDLERS AND HUCKSTERS OF FOODSTUFFS (§ 8-4-302), per year or any portion thereof	30.00
PEST EXTERMINATORS (§ 8-3-401), per year or any portion thereof	25.00
POOL AND BILLIARD TABLES, per table (§ 8-2-402)	15.00
PRIVATE SECURITY OFFICER	25.00
Temporary License Fee	15.00
REFUSE HAULING (§ 8-3-503)	30.00
Plus \$25.00 for each truck or vehicle used for collection, per year or any portion thereof	
RUBBISH HAULING (§ 8-3-503)	30.00
Plus \$25.00 for each truck or vehicle used for collection, per year or any portion thereof	
SCRAP AND USED PRECIOUS METAL OR GEM BUSINESSES (§ 8-5-302), per year or any portion thereof	50.00
SECONDHAND AND ANTIQUE STORES (§ 8-5-201), per year or any portion thereof	50.00
TAXICAB DRIVER (§ 8-7-101 et seq.), per year or any portion thereof	20.00
TRASH HAULING (§ 8-3-503)	30.00
Plus \$25.00 for each truck or vehicle use for collection, per year or any portion thereof	
TREE SERVICE (§ 8-3-304), per year or any portion thereof	25.00
(Ord. 81-69; Ord. 81-277; Ord. 83-305; Ord. 84-167; 1980 Code)	

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 6 ISSUANCE AND CONDITIONS OF LICENSES

SECTION:

- 8-1-601: Issuance or Denial
- 8-1-602: Posting, Display of License
- 8-1-603: Insignia and Decals, Display of
- 8-1-604: Licenses for Branch Establishments
- 8-1-605: Special Licenses
- 8-1-606: Transfer of License
- 8-1-607: Renewal of License
- 8-1-608: Surrender or Abandonment of License

8-1-601: ISSUANCE OR DENIAL:

- A. The Licensing Officer shall issue a license to an applicant if he finds after investigation:

1. All conditions imposed upon the applicant as prerequisites to the issuance of the said license by the terms of the provisions pertaining to the particular license sought have been met including but not limited to meeting the qualifications of applicants standard set forth in Part 4 of this Article.

2. The required application fee has been paid;

3. The required license fee has been paid;

4. The required bond has been posted;

5. The use to which the premises are proposed to be put shall conform to the requirements of applicable building, fire, safety and zoning regulations; and

6. All other specific requirements of the terms and provisions relating to the application for the particular license requested for use at the premises specified in the application have been met.

- B. If the Licensing Officer shall not so find he shall thereupon deny such application and notify the applicant of the denial by serving upon the applicant personally a copy of such denial and the reasons supporting such denial or by mailing the same to him by registered or

- B) certified mail at the business address shown on the application. Such denial shall be final immediately upon the date of serving if personally served or if mailed, upon the date of mailing. (Ord. 75-164; 1968 Code § 5-24)

8-1-602: POSTING, DISPLAY OF LICENSE:

- A. Every license issued by the City for a business or activity to be conducted at a particular street address shall be posted during the period such license is valid. Such license shall be posted in a conspicuous place and shall be visible from the principal entrance of the business or activity. When such license expires, it shall be removed; no license not in full force and effect shall remain posted.

- B. It shall be the duty of each and every person to whom a license has been issued to exhibit the same upon the request of any peace officer, the Licensing Officer, or other official of the City. (Ord. 75-164; 1968 Code § 5-25)

8-1-603: INSIGNIA AND DECALS, DISPLAY OF: Any insignia or decal which is issued pursuant to the issuance of any license shall be displayed as follows:

- A. Vehicles. All insignia or decals which are issued for vehicles shall be securely fastened to the upper lefthand corner of the front windshield of a vehicle so as to be visible from the street. In the event such vehicle has no windshield, the insignia or decal shall be placed in a visible and conspicuous manner on the front half portion of said vehicle. Such insignia or decals shall at all times be protected from the weather and other destructive elements and shall be kept legible and free from dirt or other obstruction at all times.

- B. Amusement Devices and Machines Other Than Vehicles. Insignia or decals which are issued pursuant to a license and are to be displayed on an amusement device or on a machine other than a vehicle shall be displayed in a visible and

- B) conspicuous place on such machine or amusement device and the Licensing Officer may note the location of such insignia or decal upon the license. (Ord. 75-164; 1968 Code § 5-26)

8-1-604: LICENSES FOR BRANCH ESTABLISHMENTS: A license shall be obtained in the same manner prescribed herein for each branch establishment or location of the business as if each such branch establishment or location were a separate business; provided that warehouses and wholesale distributing plants used in connection with and incidental to a business licensed under the provisions of this Chapter shall not be deemed to be separate places of business or branch establishments. (Ord. 75-164; 1968 Code § 5-27)

8-1-605: SPECIAL LICENSES:

- A. Exemptions. The Licensing Officer may issue special licenses and exempt from the payment of any license fee or other charges therefor, except the application fee, any person conducting or operating a nonprofit enterprise, either regularly or temporarily, when the Licensing Officer finds that the applicant operates without private profit for a public, charitable, educational or religious purpose. This provision shall apply only to actual operation by the applicant for a special license and shall not apply to activities merely sponsored by such applicant in return for a fee or a portion of the receipts obtained by reason of such licensed activity.
- B. Operations Must Conform. A person or organization operating under a special license shall operate the enterprise in compliance with this Chapter and all other applicable rules and regulations except as provided in this Section.
- C. Application. An applicant for a special license shall submit an application therefor to the Licensing Officer upon forms prescribed by such Officer, and shall furnish such additional information and make such affidavits as the Licensing Officer shall require. An exemption must be claimed upon such forms if the

- C) applicant is to be considered for exemption of license fees. In no instance shall the required application fee be exempt. (Ord. 75-164; 1968 Code § 5-29)

8-1-606: TRANSFER OF LICENSE: No license shall be transferred from one person to another or from one location to another. Any change of ownership or change of location of a licensed business or activity shall require a new application and license with payment of fees therefor according to the provisions pertaining to the particular kind of license. (Ord. 75-164; 1968 Code § 5-30)

8-1-607: RENEWAL OF LICENSE:

- A. At any time within thirty (30) days prior to the expiration of his current license, a licensee may make application for a license renewal for the succeeding year and pay the required fees therefor. Unless otherwise provided by this Chapter, if application is so made and no action or proceeding is pending against the licensee for suspension or revocation of his current license or licenses, he may continue in his business or activity for the succeeding period unless or until his application for license renewal is denied.
- B. In the event a suspension or revocation proceeding is pending when a license renewal is applied for, the business or activity may continue in operation during the pendency of such suspension or revocation proceeding but the application for a license renewal shall not be acted upon until the suspension or revocation proceeding has been completed.
- C. Whenever any application and license fee payment therefor is not received on or before the expiration date of any license issued to a licensee for the current license term, and the licensee continues to engage in the business for which the license was issued, a penalty of fifty percent (50%) of the amount of the license fee shall be imposed and collected, and an additional five percent (5%) of the original fee shall be added on the last day of each calendar month after the expiration date; provided, that

- C) in no case shall the total penalty exceed one hundred percent (100%) of the original fee; and provided, further, that the Licensing Officer shall be authorized to waive or adjust any and all of such penalty and additional fee whenever in his judgment the delinquency is not the fault of the licensee and to collect or require the payment thereof would be an injustice. (Ord. 75-164; 1968 Code §§ 5-31, 5-32)

8-1-608: SURRENDER OR ABANDONMENT OF LICENSE:

- A. A licensee may surrender his license by delivering it to the Licensing Officer with or without a written statement of its surrender.
- B. Failure of a licensee to exercise his license or privilege granted under such license for a period of ninety (90) days shall be presumptive evidence of abandonment of such license. An abandoned license shall be deemed not to be a current license for the purposes of this Chapter.
- C. Surrender or abandonment of a license shall not affect the civil or criminal liability of a licensee for acts committed prior to surrender or abandonment, nor entitle the licensee to a refund of the license fee for any remaining portion of the licensing period. (Ord. 75-164; 1968 Code § 5-33)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 7 INSPECTIONS AND INVESTIGATIONS

SECTION:

8-1-701: Approval or Inspection of New Licenses

8-1-702: Approval or Inspection of
Renewal Licenses

8-1-703: Authority of Inspectors

8-1-701: APPROVAL OR INSPECTION OF NEW LICENSES: Wherever the provisions pertaining to any license require approval or inspection by any officer or agency of the City other than the Licensing Officer, or whenever the Licensing Officer in his discretion deems it advisable that approval or inspection be had by any officer or agency of the City other than himself, the application for license shall be submitted by the Licensing Officer to said officer or agency. Such officer or agency shall forthwith perform such function as may be required by law or requested by the Licensing Officer and shall return to the Licensing Officer the application with endorsement of approval or disapproval. An application which is disapproved shall be accompanied by a written statement of the reasons therefor. (Ord. 75-164; 1968 Code § 5-34)

8-1-702: APPROVAL OR INSPECTION OF RENEWAL LICENSES: In the event of application for a renewal of any license, the provisions concerning such license which require approval or inspection by any officer or agency of the City other than the Licensing Officer, or in the event that the Licensing Officer deems it advisable that approval or inspection be had by another officer or agency of the City, such officer or agency shall forthwith perform such required function and such license shall be renewed or disapproved by the Licensing Officer in accordance with the provisions pertaining thereto. (Ord. 75-164; 1968 Code § 5-35)

8-1-703: AUTHORITY OF INSPECTORS: All persons authorized to inspect licensed premises and businesses shall have the authority to enter, with or without search warrant, at all reasonable times, and in a reasonable manner, the following premises:

- A. Those for which a license is required.
- B. Those for which a license was issued and which at the time of inspection are operating under such license.
- C. Those for which the license has been revoked or suspended. (Ord. 75-164; 1968 Code § 5-39)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 8 SUSPENSION AND REVOCATION PROCEDURES

SECTION:

- 8-1-801: Grounds for Suspension or Revocation
- 8-1-802: Hearing Procedure
- 8-1-803: Hearings
- 8-1-804: Notice of Suspension or Revocation
- 8-1-805: Effect of Suspension or Revocation
- 8-1-806: Appeals
- 8-1-807: Summary Suspension
- 8-1-808: Council Decision; Effect of

8-1-801: GROUNDS FOR SUSPENSION OR REVOCATION: The Licensing Officer shall suspend or revoke any license issued by the City if he finds that:

- A. The licensee has failed to pay the annual license fee;
- B. The licensee has failed to file required reports or to furnish such other information as may be reasonably required by the Licensing Officer or other City official under the authority vested in him by the terms of the provisions relating to the specific license;
- C. The licensee or any agent or employee of such licensee has violated any provisions of this Chapter pertaining to his license or any regulation or order lawfully made under and within the authority of this Chapter relating to the license;
- D. The licensee or any agent or employee of such licensee has violated any law of the United States, of the State of Colorado or the City of Colorado Springs when such violation occurred on the licensed premises, or relates to conduct

- D) or activity of any business required to be licensed by this Chapter. (Ord. 75-164; 1968 Code § 5-42; 1980 Code)

8-1-802: HEARING PROCEDURE:

- A. Upon commencement of suspension or revocation proceedings, the Licensing Officer shall set a time and place for the hearing of the matter.
- B. The Licensing Officer shall give the licensee timely notice of the time and place of the hearing and the violations asserted. Such notice shall be served personally or by mailing by first-class mail to the last address furnished to the Licensing Officer by the licensee, at least five (5) days, including Saturdays, Sundays and legal holidays prior to the hearing. In lieu of such service, or in addition thereto, a copy of such notice may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office or may be affixed to some prominent structure on such premises.
- C. All evidence shall be recorded stenographically or by electronic recording device.
- D. In all such proceedings, the City Attorney or a Deputy City Attorney shall act on behalf of the City during the hearing. (Ord. 75-164; 1968 Code § 5-43)

8-1-803: HEARINGS: The Licensing Officer or his designee shall conduct hearings for suspension or revocation of licenses granted pursuant to this Part 8. The Licensing Officer shall

make findings of fact and conclusions concerning the revocation or suspension of a license. In the event the Licensing Officer has designated another to conduct license revocation or suspension hearings, said designee shall recommend in writing to the Licensing Officer findings of fact and a conclusion for disposition of the hearing, a recommendation to be made within fifteen (15) days after the close of the hearing. The Licensing Officer shall transmit a copy of the final findings of fact and conclusion to the licensee as provided hereafter. (Ord. 75-164; 1968 Code § 5-44; 1980 Code)

8-1-804: NOTICE OF SUSPENSION OR REVOCATION:

- A. Upon suspension or revocation of any license required by this Chapter, notice of such suspension or revocation shall be given by personally serving the licensee with the order of suspension or revocation or by mailing such order to such person by certified or registered mail at the business address of the licensee as shown on the license or at the address of the designated agent. In lieu of such service, or in addition thereto, a copy of such order may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office, or may be affixed to some prominent structure on such premises.
- B. The order shall be effective immediately upon service of notice thereof unless the order provides otherwise. Service of such order shall be complete upon mailing or posting. (Ord. 75-164; 1968 Code § 5-45)

8-1-805: EFFECT OF SUSPENSION OR REVOCATION: Upon the effective date of suspension or revocation of any license required for a business or activity, the licensee of such licensed business or activity shall cease and desist from further operation or activity. (Ord. 75-164; 1968 Code § 5-46)

8-1-806: APPEALS: Any person aggrieved by any final order of the Licensing Officer after hearing shall have the right to appeal to the City Council by filing a written appeal with the City Clerk within five (5) days following the effective date of the

action or order complained of, and such appeal shall have the effect of staying execution of such final order pending appeal.

- A. **Contents of Appeal.** An appeal shall be in writing and shall set out a copy of the order appealed from and shall include a statement of the facts relied upon to avoid such order.
- B. **Notification to Licensing Officer.** At the time of filing of any appeal with the City Clerk, a copy thereof shall be filed by the applicant with the Licensing Officer.

C. **Hearing.**

1. The City Clerk shall fix a time and place for hearing the appeal which shall be at the next regular meeting of the City Council occurring not less than seven (7) days following receipt of the notice of appeal or the record on appeal, whichever is later, and shall cause written notice of the same to be served upon the applicant informing him thereof. The City Clerk shall also give such notice to the Licensing Officer and such Officer may appear and defend the order.

2. The entire record before the Licensing Officer or the appropriate Licensing Board shall become a part of the record before the City Council. In the discretion of the City Council, the licensee and the Licensing Officer may be permitted to present further evidence.

3. **Cost of Transcript:** Any aggrieved or affected person seeking review of a decision by the City Licensing Officer or the City Council shall pay to the City of Colorado Springs the estimated cost of preparing the transcript of the proceedings of testimony before said Hearing Officer or City Council. The cost of preparing the transcript of testimony before the Licensing Officer or City Council shall be charged at rates ordinarily charged by certified shorthand reporters. The cost of preparing the transcript, as estimated by the City Clerk/Treasurer, shall be paid by the aggrieved or affected person at the time of filing the appeal. In the event the cost of the transcript is greater than the cost estimated by the City Clerk/Treasurer, the person filing the appeal shall pay this additional cost within ten (10) days after billing by the City Clerk/Treasurer. In the event that the cost of

C,3) the transcript is less than the estimated sum paid by the person filing the appeal, the City Clerk/Treasurer shall refund the excess paid within ten (10) days after the actual cost of the transcript is determined. (Ord. 75-164; Ord. 81-48; 1968 Code §§ 5-47, 5-48, 5-49, 5-50)

8-1-807: SUMMARY SUSPENSION: When the conduct of any licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance or hazard and thus give rise to an emergency, the Licensing Officer shall have the authority to summarily order the cessation of business and the close of premises pending a hearing on the question of whether to suspend or revoke the license. Unless waived by the licensee in writing, the City Council within fifteen (15) days after the Licensing Officer has acted shall conduct a hearing upon the summary order and the activity giving rise to such order. The order shall state the grounds for its issuance and shall give notice of the hearing and shall be served upon the affected person in the manner prescribed in Section 8-1-802B. At such hearing the licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation. (Ord. 75-164; 1968 Code § 5-51)

8-1-808: COUNCIL DECISION; EFFECT OF:

- A. The decision of the City Council in all cases shall be final and conclusive and shall be served upon the licensee by personal service, by registered or certified mail, or by posting as provided in Section 8-1-804 of this Chapter.
- B. A decision of City Council is reviewable only by Court under Colo. R. Civ. P. 106(a)(4). There shall be no stay of execution pending a review by the Court except by Court order. (Ord. 75-164; 1968 Code § 5-52)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

PART 9 OFFENSES AND VIOLATIONS

SECTION:

- 8-1-901: Unlicensed Business or Activity
 8-1-902: Late Application for New Business
 8-1-903: Separate Violations

8-1-901: UNLICENSED BUSINESS OR ACTIVITY:

- A. When a license is required for a business or activity, and such business or activity is being conducted without a current license for such business or activity, the Licensing Officer shall give notice in writing by personal service or by mail at the place of such business or activity to the owner, manager or operator of such business or activity that a license must be obtained and that application for such license must be made within twenty four (24) hours from service of such notice. If mailed, service of notice is presumed to be made forty eight (48) hours after mailing. If the owner, manager or operator of the business or activity cannot be found upon the premises of the business or activity when such notice is served, the notice may be posted in an obvious place in or about such premises. Where notice is served by posting, forty eight (48) hours shall be allowed for application for license for such business or activity.
- B. In the event a license is not applied for after such notice and within the prescribed time limits, an order shall be issued by the Licensing Officer to the person conducting such business or activity commanding him to immediately cease and desist such operations. If compliance is not had with the cease and desist order, then

- B) and in addition to all other remedies, the Licensing Officer may call upon the City Attorney to seek an injunction in the District Court of El Paso County to cause any business or activity for which a license is required to cease and desist its operation.

- C. Remedies contained within this Section shall not be exclusive but are cumulative and in addition to all other remedies provided in this Chapter. (Ord. 75-164; 1968 Code § 5-37)

8-1-902: LATE APPLICATION FOR NEW BUSINESS:

- A. If any person shall engage in any business or activity for which a license is required without having first made application therefor, the license fee shall be deemed due upon the day the person actually commenced such business. Upon subsequent application for such license, the Licensing Officer shall impose and collect a penalty of one hundred percent (100%) in addition to the license fee and shall add an additional ten percent (10%) penalty on the last day of each calendar month subsequent to the day on which the person commenced such business.
- B. No license shall be issued for any current period until the amount of the original license fee and all accrued penalties have been paid; provided, that the Licensing Officer shall be authorized to waive or adjust any and all such penalties whenever in his judgment the delinquency is not the fault of the applicant and to collect or require the payment thereof would be an injustice. Simple failure to inquire whether a license is required shall never be cause for

waiver or adjustment of such penalty. (Ord. 75-164; 1968 Code § 5-38)

8-1-903: SEPARATE VIOLATIONS: For each day that a business or activity is operated or conducted without a current license, a separate offense shall be deemed to have been committed. Each such offense shall be punishable as provided in Section 1-2-101 of this Code. Such a continuing violation may be pleaded in a single count, but in the event of conviction, the Court's order shall specify the date or dates upon which the violation was found to occur and shall establish a penalty for each such date. (Ord. 75-164; 1968 Code § 5-53)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 2 AMUSEMENTS

PART 1 CIRCUSES, CARNIVALS AND MENAGERIES

SECTION:

- 8-2-101: Definitions
- 8-2-102: License Required, Fee
- 8-2-103: Number of Licenses Required
- 8-2-104: Insurance and Bond Requirements
- 8-2-105: Exhibitions Prohibited
- 8-2-106: Consent of Neighbors Required

8-2-101: **DEFINITIONS:**¹

CARNIVAL: Any traveling enterprise offering entertainment to the public in the form of amusement rides or games of skill or chance, or both such rides and games.

CIRCUS: Any traveling show or performance occurring in an arena or tent or in the open, including acts or displays of physical skill or daring, or any display or performance of animals.

MENAGERIE: Any circus, carnival, exhibit or show in which animals perform or are displayed to entertain the public. (Ord. 75-164; 1968 Code § 5-54B)

8-2-102: LICENSE REQUIRED, FEE: It shall be unlawful for any person to conduct or operate or permit to be conducted or operated any circus, carnival or menagerie within the limits of the City without first having obtained a license therefor. The fee for said license shall be as set out in Section 8-1-508 of this Chapter. (Ord. 75-164; 1968 Code § 5-54A,F)

8-2-103: NUMBER OF LICENSES REQUIRED:
When a single operation combines a circus, menagerie and carnival under one ownership at one location, only one license shall be required for such operation. (Ord. 75-164; 1968 Code § 5-54E)

8-2-104: **INSURANCE AND BOND REQUIREMENTS:**

- A. **Liability Insurance Required.** No license to operate a circus, carnival or menagerie shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee:

Bodily Injury	
Each person	\$300,000.00
Each accident	300,000.00
Property Damage	
Each accident	\$100,000.0
Aggregate	300,000.00

All policies shall be kept in force for the period of the license.

- B. **Bond.** No license for the operation of any circus, carnival or menagerie shall issue until the applicant shall deposit with the City Clerk-Treasurer a five thousand dollar (\$5,000.00) cash bond conditioned upon saving harmless the City from any and all liabilities or causes of action which might arise by virtue of granting such a permit to the applicant, and conditioned further that no damage will be done to the streets, sewers, trees or adjoining property, and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by such applicant. Such cash bond shall be returned to the applicant upon certification by the Licensing Officer that all conditions of this provision have been complied with. (Ord. 75-164; 1968 Code § 5-54C,D)

8-2-105: EXHIBITIONS PROHIBITED: It shall be unlawful for any person to exhibit any freak of nature within the City. (Ord. 75-164; 1968 Code § 5-54G)

¹ For definitions of general application, see Section 1-1-203 of this Code.

8-2-106: CONSENT OF NEIGHBORS

REQUIRED: Each application for a license to conduct or operate a circus, carnival or menagerie must be accompanied by a signed statement from each resident or property owner within a one thousand foot (1,000') radius from the site where the circus, carnival or menagerie is to be operated, which statement shall indicate whether the signer is agreeable to or opposed to the proposed operation. (Ord. 81-129)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 2 AMUSEMENTS

PART 2 AMUSEMENT RIDES

SECTION:

- 8-2-201: Definitions
- 8-2-202: License Required; Fee, Term
- 8-2-203: Public Liability Insurance Required
- 8-2-204: Consent of Neighbors Required
- 8-2-205: Exceptions

8-2-204: **CONSENT OF NEIGHBORS REQUIRED:**

Each application for a license to conduct or operate an amusement ride or similar device must be accompanied by a signed statement from each resident or property owner within a one thousand foot (1,000') radius from the site where the amusement ride is to be operated, which statement shall indicate whether the signer is agreeable to or opposed to the proposed operation. (Ord. 75-164; 1968 Code § 5-55C)

8-2-201: **DEFINITIONS:**¹

AMUSEMENT RIDE: Includes but shall not be limited to such devices as a merry-go-round, ferris wheel or other ride designed to carry more than four (4) children or which is constructed for use by adults. (Ord. 75-164; 1968 Code § 5-55B)

8-2-205: EXCEPTIONS: No license shall be required under this Section if the amusement ride has a capacity of carrying no more than four (4) children and such amusement ride is not constructed for use by adults. (Ord. 75-164; 1968 Code § 5-55F)

8-2-202: LICENSE REQUIRED; FEE, TERM: It shall be unlawful for any person to conduct or operate an amusement ride or similar device within this City, without first having obtained a license therefor. The fee for said license shall be as set out in Section 8-1-508 of this Chapter. Said license shall be for a thirty (30) day period or portion thereof. (Ord. 75-164; 1968 Code § 5-55A,D)

8-2-203: PUBLIC LIABILITY INSURANCE REQUIRED: No license to operate an amusement ride shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee:

Bodily Injury:	
Each person	\$300,000.00
Each accident	300,000.00
Property Damage	
Each accident	\$100,000.00
Aggregate	300,000.00

All policies shall be kept in force for the period of the license. (Ord. 75-164; 1968 Code § 5-55E)

¹ For definitions of general application, see Section 1-1-203 of this Code.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 2 AMUSEMENTS

PART 3 COIN-OPERATED MACHINES

SECTION:

- 8-2-301: Definitions
- 8-2-302: Licenses Required
- 8-2-303: Exceptions
- 8-2-304: Insignia Required
- 8-2-305: Manager Responsible
- 8-2-306: Offenses
- 8-2-307: Confiscation, Disabling of Devices

8-2-301: **DEFINITIONS:**¹

COIN-OPERATED AMUSEMENT DEVICES: Any amusement device or machine, including video-display games and electronic games, placed in operation by a coin or slug, the operation of which is dependent upon the skill, judgment or other action of the player who by means of a plunger or other suitable mechanism successively propels balls, discs or anything resembling either or a ray of light or any actuating device upon or against a playing surface, having holes, grooves or other means of stopping, retaining or recording the score made by balls, discs or anything resembling them constituting a game, or other similar coin-operated amusement devices including games involving intelligence quotient testing by the use of multiple questions and answers or in which balls or similar objects are moved or pushed by the player by means of handles or similar controls or target-shooting games or other similar coin-operated amusement devices.

COIN-OPERATED MUSICAL DEVICES: Any device or machine which produces or reproduces music and is placed in operation by a coin or slug; it shall not include, however, radios or televisions which are rented for use in private hotel or motel rooms, hospitals or camps or cabins where the renting of the room or cabin accommodation is a prerequisite to and includes the renting of the radio or television.

OPERATOR: Includes any person owning or controlling one or more coin-operated amusement devices or coin-operated musical devices which are rented, displayed or otherwise used in a place of

business not under the control of such operator, and shall also include any person who owns or controls three (3) or more coin-operated amusement devices or coin-operated musical devices which are used in his own place of business or in a place of business under his control.

NON-OPERATOR: Includes any person owning or controlling not more than two (2) coin-operated amusement devices or coin-operated musical devices which are used in his own place of business or in a place of business under his control. (Ord. 76-69; 1968 Code § 5-57B)

8-2-302: LICENSES REQUIRED: It shall be unlawful for any person to permit any coin-operated amusement device or coin-operated musical device to be used by the public or to make such device available for use by the public within the City unless a non-operator's license or an operator's license is obtained from the Licensing Officer. The fees for said licenses shall be as set out in Section 8-1-508 of this Chapter.

- A. **Non-Operator's License.** It shall be unlawful for any non-operator to display, let or otherwise permit to be used within the City a coin-operated amusement device or coin-operated musical device, unless such non-operator has a non-operator's license as provided by the terms of this Part 3. Each such license shall expire on March 31 of each year.
- B. **Operator's License.** It shall be unlawful for any operator to display, let or otherwise permit to be used within the City a coin-operated amusement device or coin-operated musical device, unless such operator has an operator's license as provided by the terms of this Part 3. Each such license shall expire on March 31 of each year. (Ord. 76-69; 1968 Code § 5-57A,C,J)

8-2-303: EXCEPTIONS: No business renting, leasing or otherwise having in possession

1. For definitions of general application, see Section 1-1-203 of this Code.

any coin-operated amusement device or coin-operated musical device belonging to an operator shall be required to obtain an operator's license or a non-operator's license under the terms of this Part 3. (Ord. 76-69; 1968 Code § 5-57L)

8-2-304: INSIGNIA REQUIRED: It shall be unlawful for any person to allow a coin-operated amusement device or a coin-operated musical device to be used by the public or to be available for use by the public within the City unless an insignia is obtained for such device. An insignia will be issued by the Licensing Officer at the time a non-operator's or an operator's license is obtained. An insignia shall be issued for each such device owned or controlled by the licensee upon payment of the insignia fee set out in Section 8-1-508 of this Chapter. Additional insignia shall be issued upon the request of the licensee and the payment of the insignia fee. An insignia for each such device shall be displayed at the location where such device is available for use by the public, but shall not be required for any such device not available for use by the public. An insignia shall expire at the time of expiration of the non-operator's or the operator's license. (Ord. 76-69; 1968 Code § 5-57F)

8-2-305: MANAGER RESPONSIBLE: The person in charge of the place of business in which any coin-operated amusement device or coin-operated musical device shall be used shall be conclusively presumed to have knowledge of and is hereby specifically made personally responsible for the proper use of such device. If any such device is used for gambling or other unlawful or improper use, the person in charge of such place of business shall be presumed to have specifically authorized such use. (Ord. 76-69; 1968 Code § 5-57N)

8-2-306: OFFENSES:

A. **Gambling Prohibited.** It shall be unlawful for any person to use a coin-operated amusement device or coin-operated musical device for gambling purposes or to allow a coin-operated amusement device or a coin-operated musical device to be used for gambling purposes.

B. **Unlawful Furnishing of Devices.** It shall be unlawful for any person to furnish coin-operated amusement devices or coin-operated musical devices to a place of business whose non-operator's license or operator's license has been suspended or revoked. (Ord. 76-69; 1968 Code § 5-57M,O)

8-2-307: CONFISCATION, DISABLING OF DEVICES: Any coin-operated amusement device or coin-operated musical device for which an insignia has not been obtained as required by this Part 3 may be sealed or otherwise disabled or made inoperative without damage to the device at the direction of the Licensing Officer or any peace officer until such insignia shall be obtained. Conviction for failure to have such insignia properly displayed for each coin-operated amusement device or coin-operated musical device may result in punishment in accordance with Section 1-2-101 of this Code. (Ord. 76-69; 1968 Code § 5-57P)

*CHAPTER 8 BUSINESS AND LICENSE REGULATIONS***ARTICLE 2 AMUSEMENTS***PART 4 BILLIARD AND POOL TABLES***SECTION:**

8-2-401: License Required

8-2-402: Application for License; Fee, Term

8-2-403: Closing Hours

8-2-401: **LICENSE REQUIRED:** It shall be unlawful for any person to keep within the City for gain or profit, any billiard table, pool table or bagatelle or pigeonhole table, without first having obtained a license therefor as hereinafter provided; except that coin-operated tables shall be licensed as provided in Section 8-2-302 of this Chapter. Ord. 76-184; 1968 Code § 5-56A)

8-2-402: **APPLICATION FOR LICENSE; FEE, TERM:** Any person desiring such license shall apply therefor to the Licensing Officer as provided for in this Chapter. The annual fees for each such license shall be as set out in Section 8-1-508 of this Chapter. The license issued herein shall expire on January 1 of each year. (Ord. 76-184; 1968 Code § 5-56B, C)

8-2-403: **CLOSING HOURS:** Any person who keeps, for gain and profit, any such billiard or pool table, whether coin or noncoin-operated, on a premises required to be licensed under Chapter 9, Article 1, Part 2 of this Code and/or by articles 46 and 47 of title 12, C.R.S. 1973, as amended¹ shall not permit any playing thereon during those hours that the sale or service of alcoholic beverages is prohibited. (Ord. 76-184; 1968 Code § 5-56D)

1. For purposes of enforcement of this statute, the City Clerk shall be the local licensing authority.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS**ARTICLE 2 AMUSEMENTS****PART 5 GAME ROOMS****SECTION:**

- 8-2-501: Definitions
8-2-502: License Required, Fee
8-2-503: Location, Transfer of License
8-2-504: Unlawful Furnishing of Devices

8-2-504: UNLAWFUL FURNISHING OF DEVICES: It shall be unlawful for any person to furnish coin-operated amusement devices or coin-operated musical devices to a place of business whose game room license has been suspended or revoked. (Ord. 76-69; 1968 Code § 5-57.1E)

8-2-501: DEFINITIONS:¹

GAME ROOM: Any business location that has five (5) or more coin-operated musical devices and/or coin-operated amusement devices and one-half (½) or more of gross sales at such location are from such coin-operated musical devices and/or coin-operated amusement devices.

COIN-OPERATED AMUSEMENT DEVICES: The definition of coin-operated amusement devices is set forth in Section 8-2-301 of this Chapter.

COIN-OPERATED MUSICAL DEVICES: The definition of coin-operated musical device is set forth in Section 8-2-301 of this Chapter. (Ord. 76-69; 1968 Code § 5-57.1B)

8-2-502: LICENSE REQUIRED, FEE: It shall be unlawful for any person to operate a game room unless such person shall first obtain a license for a game room from the Licensing Officer. The fee for said license shall be as set out in Section 8-1-508 of this Chapter. (Ord. 76-69; 1968 Code § 5-57.1A,D)

8-2-503: LOCATION, TRANSFER OF LICENSE: A game room license shall specify the location for which the license applies and shall not be transferred to any other location without application pursuant to this Chapter. (Ord. 76-69; 1968 Code § 5-57.1C)

1. For definitions of general application, see Section 1-1-203 of this Code.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS**ARTICLE 2 AMUSEMENTS****PART 6 PUBLIC DANCES****SECTION:**

- 8-2-601: Definitions
- 8-2-602: License Required; Fee, Term
- 8-2-603: Age Restrictions
- 8-2-604: Exceptions

8-2-601: DEFINITIONS:¹

PUBLIC DANCE: Any dance or ball to which admission can be had by payment of a fee or by the purchase, possession or presentation of a ticket or other token, or at which a charge is made for caring for clothing or property, or any dance whatsoever to which the general public may gain admission, either with or without payment.

The term "public dance" as herein defined, shall not include any place licensed to sell intoxicating liquors under the laws of the State and the applicable ordinances of the City, including 3.2% beer, and having a dance floor unobstructed by tables or other fixtures of not less than three hundred (300) square feet. (Ord. 75-164; 1968 Code § 5-61B)

8-2-602: LICENSE REQUIRED; FEE, TERM: It shall be unlawful for any person to hold a public dance without first having obtained a license therefor not later than noon the day before the day on which the dance is to be held. The fee for said license shall be as set out in Section 8-1-508 of this Chapter, and the time period for which a public dance license is valid shall be noted upon the license. (Ord. 75-164; 1968 Code § 5-61A,C,D)

8-2-603: AGE RESTRICTIONS:

A. Age Limitation. It shall be unlawful to permit any person to attend any public dance who is not fifteen (15) years of age, unless such person is accompanied by a parent or natural guardian.

B. Misrepresenting Age. It shall be unlawful for any person to attend a public dance who is not fifteen (15) years of age or older, unless such person is accompanied by a parent or natural guardian.

C. Falsely Representing Parent or Guardian. It shall be unlawful for any person to represent himself to be a parent or a natural guardian of any person in order that such person may obtain admission to a public dance, when the person making the representation is not the parent or natural guardian of the other person. (Ord. 75-164; 1968 Code § 5-61E,F,G)

8-2-604: EXCEPTIONS: Private parties at private residences, or at public or private schools, and dances given by societies, clubs or corporations at the premises regularly occupied by them, when the attendance is restricted to the members thereof and to their invited guests, are specifically excluded from the provisions of this Part 6. (Ord. 75-164; 1968 Code § 5-61H)

1. For definitions of general application, see Section 1-1-203 of this Code.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 3 SALES OF SERVICES

PART 1 MASSAGE PARLORS¹

SECTION:

- 8-3-101: Definitions
- 8-3-102: Licenses Required
- 8-3-103: License Fees, Term
- 8-3-104: Conformance to State Law Required
- 8-3-105: Classification of Licenses
- 8-3-106: Applications for Licenses; Renewal
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8-3-101: DEFINITIONS:²

APPARATUS: Any appliance, piece of equipment or any other object used in the application of a massage; provided, apparatus shall not include furniture, towels, linens, oils or showers used in conjunction with the application of a massage.

APPRENTICE: A person employed by a massage parlor or massage establishment and working under a licensed massage technician or massage therapist for the purpose of learning the method and practice of massage, who has completed three hundred (300) hours of training in the theory, method, profession or work of massage in a recognized school and who maintains a current enrollment and continuing satisfactory progress in a recognized school. (Ord. 77-17; Ord. 78-2)

EXTERNAL BATHS: Includes water vapor, steam, wet, electric, salt, alcohol or any other kind or character of massage.

MASSAGE: Pressure on, friction against, stroking, rubbing, kneading or other manipulation of the body by any means with or without apparatus including but not limited to vibrators, infrared heat, sun lamp and external baths.

MASSAGE PARLOR or MASSAGE ESTABLISHMENT: An establishment having a place of business where any person engages in, conducts or carries on, or permits to be engaged in, conducted or carried on, any business of the manipulation of the body by means of massage as herein defined.

MASSAGE PARLOR OPERATOR or OPERATOR: Any person owning or operating a massage parlor or massage establishment. In the event of a corporate or partnership owner, the operator shall mean the manager or person in charge of the premises.

MASSAGE TECHNICIAN or MASSAGE THERAPIST: Any person who administers or offers to administer to another person, for any form of consideration or hire, a massage, alcohol bath, electric or magnetic massage procedure, manipulation of the body, or other similar procedure. (Ord. 78-175)

RECOGNIZED SCHOOL: Any institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, and requires a resident course of not less than four hundred (400) hours for graduation. The course shall include instruction in the principles of anatomy and physiology. In order to be recognized, the school shall furnish the student who satisfactorily completes such course of study or learning a diploma or certificate of graduation. If the school is located within the State of Colorado, it shall meet qualifications established by the Private Vocational School Act of 1975,³ or other applicable provisions of the laws of the State of Colorado pertaining to vocational education as enacted or as may hereafter be enacted. Where a school is located outside the State, it shall meet the qualifications established by this Section. (Ord. 78-2; 1968 Code § 5-66B)

1. For zoning restrictions relating to massage parlors, see Article 11 of Chapter 14 of this Code. For State regulation of massage parlors, see C.R.S. 1973 §§ 12-48.5-101 et seq.

2. For definitions of general application, see Section 1-1-203 of this Code.

3. C.R.S. 1973 §§ 12-59-101 et seq.

8-3-102: LICENSES REQUIRED:

- A. Parlor or Establishment. It shall be unlawful for any person to operate a massage parlor or massage establishment without first having obtained a license therefor.
- B. Technician or Apprentice. It shall be unlawful for any person to perform or offer to perform the service of a massage technician or apprentice without first having obtained a license so to do as hereinafter provided. (Ord. 78-175)

It shall be unlawful for an operator of a massage parlor to permit any person in his massage parlor or massage establishment to act as a massage technician or apprentice until such person is duly licensed as provided herein.

- C. Renewal Licenses. Each licensee shall reapply for a license annually by application, and such license shall issue without re-examination, provided application for reissue is made as hereinafter provided. (Ord. 78-2; 1968 Code § 5-66A)

8-3-103: LICENSE FEES, TERM: License fees for massage parlors and establishments and for massage technicians are as set out in Section 8-1-508 of this Chapter. Such fees are for the purpose of defraying the cost of examination and administration of this Part 1 and shall not be refundable if for any reason a license is not issued, or in the event the license shall issue, if the licensee shall cease operations before the end of the period for which the license was issued.

All licenses provided for herein shall expire on December 31 of each year from the date of issuance. (Ord. 78-2; 1968 Code § 5-66C)

8-3-104: CONFORMANCE TO STATE LAW REQUIRED: Licenses for massage parlors or massage establishments issued herein shall be issued in conformity with article 48.5, title 12, C.R.S. 1973, as amended, commonly cited as the Colorado Massage Parlor Code.¹ (Ord. 78-2; 1968 Code § 5-66A)

8-3-105: CLASSIFICATION OF LICENSES: Massage technician or massage therapist licenses shall be classified as follows:

- A. Unlimited. This license permits the performance of massage activities by means defined or permitted in this Section.
- B. Apprentice.

1. This license permits the performance of massage upon any person only under the direct supervision and direction of a licensed massage technician or massage therapist who must be present in the establishment at all times while an apprentice is performing massage in any form.

2. The license issued under this Section shall be valid for a period not exceeding six (6) months and no extension or re-issue shall be granted, at which time the person operating under such permit shall obtain an unlimited license under the provisions of this Article or shall cease the performance of massage. (Ord 77-17; 1968 Code § 5-66F)

8-3-106: APPLICATIONS FOR LICENSES; RENEWAL:

- A. Massage Parlors or Establishments. A massage parlor operator seeking to obtain a license shall submit a written application to the Licensing Officer so that it may be determined that:

1. The applicant is twenty one (21) years of age or older.

2. The applicant, including each member of a firm, partnership or association if the applicant is a firm, partnership or association and including the actual manager of the business if the applicant is a corporation, is of good moral character. If the applicant is a corporation, the date and state of incorporation, name and address of the registered agent for the State of Colorado, and the names and addresses of officers and directors of said corporation shall be stated.

3. The applicant, if he performs the duties of a massage therapist or manages or supervises the therapists, is a licensed massage therapist.

4. The applicant, including each of the persons mentioned in paragraph 2 above, shall be photographed and fingerprinted by the Police Department upon applying for a license.

¹ For purposes of enforcement of this statute, the City Clerk shall be the local licensing authority.

A) 5. The applicant, including each of the persons mentioned in paragraph 2 above, has been examined by and has been issued a health certificate from a medical doctor stating that the applicant has within the thirty (30) days immediately prior thereto been examined and found to be free from any contagious or communicable diseases, where such parties actively participate in the operation of the business.

6. The applicant, including each of the above-mentioned persons in paragraph 2 has not previously been convicted of any violation involving moral turpitude or any offense against the decency of the community.

B. Massage Therapist or Apprentice. Any person seeking to obtain a license as a massage technician or massage therapist shall submit a written application to the Licensing Officer containing but not limited to the following information:

1. The full name and present address of the applicant, and all aliases by which the applicant is or may be known;

2. The previous street and city addresses of the applicant for the two (2) years preceding the application;

3. At least three (3) references from residents of Colorado that the applicant is of good moral character;

4. Written proof that the applicant is over the age of eighteen (18) years;

5. Applicant's height, weight, color of eyes and hair;

6. Two (2) portrait photographs at least two inches by two inches (2" x 2"), one of which shall be attached to the license issued;

7. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application;

8. The massage or similar business license history of the applicant; whether such person in previously operating in this or any other city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action or suspension or revocation;

B) 9. All convictions involving moral turpitude or any offense against the decency of the community for the five (5) years preceding application;

10. A certificate from a medical doctor stating that the applicant has, within thirty (30) days immediately prior thereto, been examined and found to be free of any contagious or communicable disease;

11. Applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession, and work of massage technicians is taught. (Ord. 77-17)

12. Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

13. The applicant shall be fingerprinted by the City Police Department upon submission of the application;

14. Classification of license desired whether unlimited, or apprentice.

C. Renewal. Application for renewal of licenses shall be submitted along with the appropriate annual fee as hereinafter provided at any time up to forty five (45) days prior to the date of expiration. (Ord. 78-2; 1968 Code § 5-66E,G,H; 1980 Code)

D. The criminal history record information of any applicant, licensee or employee of the licensee or applicant may be taken into account by the Licensing Officer in the decision to grant, renew, revoke or suspend any license issued pursuant to this Section. (1980 Code)

8-3-107: INVESTIGATION REQUIRED; DISCLOSURE: The Licensing Officer shall investigate the validity of the statements contained in each application for a license required under this Part 1 and shall submit such application to the Board of Massage Examiners for further investigation.

An applicant for any license provided for herein shall completely disclose all information required by the application. Wilful refusal to submit a true and accurate application shall be grounds for the Licensing Officer to refuse to accept such application

or refuse to issue said license until such time as the application is accurately completed. (Ord. 78-2; 1968 Code § 5-66I,J)

8-3-108: BOARD OF MASSAGE EXAMINERS:

- A. **Board Created, Appointments.** There is hereby created a Board of Massage Examiners. The Board shall consist of three (3) qualified persons. All appointments shall be made by the Mayor and members shall serve at his pleasure. Appointments to the Board shall be made in such manner as to achieve staggered three (3) year terms. Members shall serve without compensation.
- B. **Duties and Functions.** The Board shall determine the qualifications of each applicant requesting a license to act as a massage technician, or apprentice, and shall submit such approval or disapproval to the Licensing Officer.
- C. **Establish Rules and Regulations.** The Board shall establish rules and regulations relating to the examination of applicants.
 - 1. The Board shall, upon proposing said rules and regulations, give notice of a public hearing to afford interested persons an opportunity to submit views on the proposed rules and regulations.
 - 2. Said notice shall give the date, place, time and terms of the proposed rules or regulations.
 - 3. The Board shall give interested persons an opportunity to participate in the rule making and shall accept written views, data and oral arguments at the public hearing.
 - 4. The Board shall issue a statement of the matters considered in the adoption or rejection of the rule or regulation and the matters proposed by any interested persons.
 - 5. The Board upon adoption of the proposed rule or regulation shall publish the same in a newspaper of general circulation, and the rule or regulation shall become effective twenty (20) days after publication.
 - 6. The Board shall maintain a register of all adopted rules and regulations currently in force.

- C) 7. Appeal from the Board's adoption or rejection of a proposed rule or regulation shall be as prescribed in this Part 1.

- D. **Records of the Board.** The Board shall make a record of all its proceedings, which shall be filed in the office of the City Clerk and shall be a public record. (Ord. 75-164; 1968 Code § 5-66V)

8-3-109: EXAMINATION PROCEDURES:

- A. An applicant for a license under this Part 1 shall be examined by the Board to determine the applicant's qualifications. The examination may include, but need not be limited to, the following:
 - 1. A practical demonstration in the practice of body massage by hand or by mechanical or vibratory devices;
 - 2. The use of oil rubs, salt glows, hot and cold packs, tub, shower and heat lamps;
 - 3. Demonstration of a knowledge of the principles of anatomy and physiology, either by written or by practical demonstration.
- B. The Board shall establish the minimum requirements required for qualification.
- C.
 - 1. An applicant who fails the examination shall be entitled to re-examination, but in no case shall the applicant be entitled to be examined more than three (3) times in any six (6) month period under each application.
 - 2. Prior to each re-examination an applicant shall pay an additional fee of ten dollars (\$10.00).
- D. The Board shall submit in writing its approval or disapproval of each application and reasons therefor to the City Clerk within fifteen (15) days after the examination. (Ord. 75-164; 1968 Code § 5-66V)

8-3-110: APPEAL OF BOARD'S DECISION:

- A. Upon protest of an adverse ruling of the Board of Massage Examiners, the Board shall hold a hearing, maintaining a record of the proceedings, and shall hear evidence of all interested persons to hear the validity of the protest. The Board shall issue a written

- A) decision as to the reasons for acceptance or rejection of the qualifications of the applicant after hearing all the evidence.
- B. The hearing shall be held within fifteen (15) days after disapproval by the Board of the qualifications of the applicant.
- C. Appeal from an adverse ruling of the Board, after the hearing as provided, shall be to the City Council as provided in Sections 8-1-806 through 8-1-808 of this Chapter, the Board standing in the position of the Licensing Officer. (Ord. 75-164; 1968 Code § 5-66W)

8-3-111: INSPECTIONS:

- A. The Health Department and Fire Department shall, from time to time and at least twice each year, make an inspection of each massage establishment in the City to determine compliance with the provisions of this Part 1. Nothing herein shall preclude members of the Health Department, Fire Department or Police Department from making inspections of the premises at any reasonable time during the hours of operation. It shall be unlawful for any operator of a massage parlor or massage establishment to refuse to allow the aforementioned inspection.
- B. Inspection of the premises shall be limited to those areas not in actual use at the time of the inspection, provided, however, this shall not preclude inspection of those areas when not in use. Nothing herein shall be construed to preclude a peace officer from inspecting any area where he has probable cause to believe that a violation of this Part 1 or other provision of this Chapter is being committed. (Ord. 75-164; 1968 Code § 5-66P)

8-3-112: SALE OR TRANSFER OF BUSINESS:

- A. No license shall be transferable from one license holder to another. A new application shall be made by any person desiring to own or operate a presently-licensed massage establishment. A fee of ten dollars (\$10.00) shall be payable for each such application involving a sale or other conveyance of any interest in a presently-licensed massage establishment. Such fee shall not be refundable

- A) in the event the license shall not issue. The new license shall be valid only for the unexpired portion of the original license.
- B. Any sale or conveyance of any interest in an existing massage establishment or any application for an extension or expansion of the premises or removal of the massage establishment to another location shall require inspection and shall require compliance with all applicable provisions of this Part 1 and all other applicable provisions of this Chapter. (Ord. 75-164; 1968 Code § 5-66S)

8-3-113: DISPLAY OF LICENSE:

- A. Every person to whom or for which a massage parlor or massage establishment license shall have been granted under this Part 1, shall display said license in a conspicuous place so that the same may readily be seen by persons entering the premises where the massage, bath or treatment is given.
- B. Every person to whom a massage technician or apprentice license shall have been granted under this Part 1, shall affix said license conspicuously to the outer garment of the person at all times while upon the licensed premises so that the person's identity may be readily ascertainable. (Ord. 75-164; 1968 Code § 5-66K; 1980 Code)

8-3-114: HOURS OF OPERATION: It shall be unlawful for any operator of any massage parlor to allow any massage activity or other acts prohibited by this Part 1 upon the premises between the hours of twelve o'clock (12:00) Midnight and six o'clock (6:00) A.M. (Ord. 76-61; 1968 Code § 5-66Q)

8-3-115: RECORDS REQUIRED: Every operator shall keep a record of treatments rendered off the business site, and shall describe the address where the treatment was rendered, name and address of the patron, technician rendering such treatment, and the date and hour of such treatment. Said records shall be maintained for a period of one year. (Ord. 75-164; 1968 Code § 5-66R)

8-3-116: FACILITIES; SANITARY REQUIREMENTS: No massage parlor

license shall be issued or renewed unless inspections by the Health Department, Building Department and Fire Department indicate that the establishment complies with the following minimum requirements:

- A. A readable sign shall be posted at the main entrance identifying the establishment as a massage parlor;
- B. Minimum lighting shall be provided in accordance with the Uniform Building Code, and in addition, at least one artificial light of not less than forty (40) foot candles shall be provided in each room or enclosure where services are performed on patrons, and such minimum lighting shall be in use when services are being performed;
- C. Minimum ventilation shall be provided in accordance with the Uniform Building Code;
- D. Adequate equipment shall be provided for disinfecting and sterilizing instruments used in the administering or practicing of the subjects or methods of treatment. Such instruments shall be sterilized after each use;
- E. Hot and cold running water shall be provided at all times;
- F. Closed cabinets or other approved storage facilities shall be provided and used in the storage of clean linens;
- G. Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room, one toilet and one washbasin, and facilities to provide a safe and secure place to keep valuables and personal items, shall be provided in every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at said massage parlor, a separate massage room or rooms, separate dressing facilities and separate toilet facilities shall be provided for male and female patrons;
- H. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the massage parlor must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets,
- H) shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and massage tables shall be thoroughly cleaned and disinfected after each use; clean and sanitary linens shall be provided for each patron of the massage parlor. The tables shall be provided with clean and sanitary linens, paper towels or sheets for each patron;
- I. A minimum of one separate wash facility shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practical to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin, sanitary towels or other approved facilities, placed in permanently installed dispensers;
- J. Compliance with other applicable provisions of this Code. (Ord. 75-164; 1968 Code § 5-66L)

8-3-117: EMPLOYEES; RECORDS REQUIRED:

- A. The operator of each massage parlor shall keep and maintain up to date a register of all employees, including address, age, sex, race, duties and such other information as the Licensing Officer may reasonably require. Upon hiring or discharging a massage therapist, the operator shall immediately notify the Licensing Officer in writing and shall include in such notice the aforesaid personal data. (Ord. 75-164; 1968 Code § 5-66N; 1980 Code)
- B. It shall be unlawful for any operator of a massage parlor to fail or refuse to provide the Licensing Officer with the name, address and telephone number of any person employed by such operator at the time of employment. (1980 Code)

8-3-118: EXCEPTIONS: The following classes of persons and establishments are exempted from this Section:

- A. Physicians, osteopaths, physical therapists, chiropractors, podiatrists or chiropractors licensed in the State of Colorado.

- B. Registered nurses and licensed practical nurses who are licensed in the State of Colorado, performing such services in their usual nursing duties.
- C. Beauticians and barbers duly licensed under the laws of this State in the course of practice of their usual and ordinary licensed vocation and profession, as defined by the laws of this State.
- D. Massage practice at the athletic department of any State-accredited school, college, university, seminary or in connection with conduct of professional athletics.
- E. Hospitals, clinics, nursing and convalescent homes and other similar institutions dedicated to the medical or nursing practices, where massage and baths may be given and which are licensed under the laws of this State. Employees of such institutions shall be exempt from this Part 1 while in the normal course of their employment within such institution.
- F. Massage practiced in an institution of learning established for such instruction, under the Private Vocational School Act of 1975.¹(Ord. 78-2; 1968 Code § 5-66M)

8-3-119: UNLAWFUL ACTS:

- A. Any operator of any massage establishment or any massage technician or other employee of such massage establishment and the licensee or any person or patron in or upon the premises, is hereby prohibited from:
 - 1. Engaging in prostitution, masturbation, deviate sexual intercourse or other act designed or intended to arouse or gratify the sexual desires of any other person; or
 - 2. Soliciting, directly or indirectly, any person to engage in prostitution, masturbation, deviate sexual intercourse or other act designed or intended to arouse or gratify the sexual desires of any other person, whether such prostitution, masturbation or other acts are intended to occur on or off the premises of the massage establishment.
 - 3. For the purposes of this Part 1, the following definitions are applicable:

- A,3)
 - a. Masturbation means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.
 - b. Deviate sexual intercourse includes but is not limited to the acts of fellatio, cunnilingus or anal intercourse and are defined as follows:
 - (1) Fellatio means any act of oral stimulation of the penis.
 - (2) Cunnilingus means any act of oral stimulation of the vulva or clitoris.
 - c. Anal intercourse means contact between human beings of the genital organs of one in the anus of another.
- B. Any operator who knows or reasonably should know that such prohibited act has occurred, does occur, or is occurring in or upon the premises of his establishment, shall be deemed guilty of committing such act and shall be held liable as a principal.
- C. No operator, massage technician or other person in the employ of the massage parlor or massage establishment shall violate any Federal or State law or City ordinance or any provisions of this Act in or upon the premises of any massage establishment. Any operator who knows or reasonably should know that any violation of this Code or provisions of this Chapter is occurring or does occur upon the premises of said massage parlor, and does not immediately act to prevent the same and report the same to proper authorities, shall be deemed guilty of committing such acts and shall be liable as a principal.
- D. Each operator of a massage establishment shall conduct his establishment in a decent, orderly and respectable manner, and shall not permit within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, known prostitutes, lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity offensive to the senses of the average citizen, or the inhabitants of the neighborhood in which the establishment is located.
- E. It shall be unlawful for any operator to knowingly employ a person as a massage

1. C.R.S. 1973 §§ 12-59-101 et seq.

- E) technician or apprentice as defined in this Part 1 who is not in possession of a valid license.
- F. It shall be unlawful for any licensee to sell, offer for sale, serve or permit consumption of any alcoholic beverages or fermented malt beverage as defined in articles 46, 47 and 48 of title 12, C.R.S. 1973, as amended, on the licensed premises without obtaining a license under the aforementioned Statutes. (Ord. 78-2; 1968 Code § 5-66O)

8-3-120: OPERATION CONTRARY TO PROVISIONS: Any massage establishment operated, conducted or maintained contrary to the provisions of this Part 1 shall be and the same is hereby declared to be unlawful and a public nuisance and the City Attorney, in addition to all other remedies set forth hereunder, may institute action to revoke the license pursuant to the procedures set forth in this Chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this Part 1. (Ord. 75-164; 1968 Code § 5-66T)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 3 SALES OF SERVICES

PART 2 PRIVATE SECURITY SERVICES

SECTION:

- 8-3-201: Legislative Declaration
- 8-3-202: Definitions
- 8-3-203: Security Agency Advisory Board
- 8-3-204: License Required; Exemptions; Transferability
- 8-3-205: Qualifications for Licenses
- 8-3-206: Fees
- 8-3-207: Application Requirements for Contract Security Agency's License
- 8-3-208: Contract Security Agency's License
- 8-3-209: Requirements of Contract Security Agencies
- 8-3-210: Application Requirements for Private Security Officers
- 8-3-211: Private Security Officers' Licenses
- 8-3-212: Denial, Suspension, or Revocation of License
- 8-3-213: Unlawful Acts; Violations; Penalty
- 8-3-214: Private Security Officer Training
- 8-3-215: Probationary License
- 8-3-216: Temporary License

PRIVATE SECURITY OFFICER: An individual who is principally employed as a security guard, an armored car service guard, an armed alarm response runner, or an armed courier; an individual who is principally employed to protect any person or property from crimes or wrongs, done or threatened, against such person or property and whose duties include, but are not limited to, the prevention of burglary, robbery, theft, criminal mischief, arson, assault, or trespass; an individual who is principally employed to control, regulate, or direct the flow or movements of persons on private property, whether by vehicle, by foot, or otherwise; an individual who is principally employed to provide street patrol service or merchant patrol service.

PROPRIETARY SECURITY ORGANIZATION: A person who has a security department which has as its general purpose the protection and security of its own property and personnel and who does not offer or provide security services to any other person. (Ord. 84-167)

8-3-201: **LEGISLATIVE DECLARATION:** The City Council hereby declares it to be in the interest of the citizens of the City and a proper exercise of the police power of the City to require the licensing of persons who provide security services. (Ord. 84-167)

8-3-202: **DEFINITIONS:** As used in this Part, unless the context otherwise requires:

CONTRACT SECURITY AGENCY: Any person who for a fee or other consideration agrees to furnish or furnishes a private security officer on a contractual basis to another person.

PERSON: A natural person, partnership, association, company, corporation, or organization.

PRINCIPAL: With respect to a contract security agency, an individual who is actively engaged in the management or operation of such agency.

8-3-203: **SECURITY AGENCY ADVISORY BOARD:**

- A. There is hereby created a Security Agency Advisory Board, to be composed of nine (9) members to be appointed by the City Council. The Security Agency Advisory Board shall be responsible for advising the City Clerk, City Licensing Officer, Chief of Police, and others on matters pertaining to security services in general and in particular on matters contained in this Part 2, including but not limited to applications, qualifications and training.
- B. **Membership.** Of the nine (9) members, one shall be a member of the American Society for Industrial Security, one shall be a member of the Retail Security Organization, two shall be principals of large security agencies, two (2) shall be principals of small security agencies, one shall be an employee of a large security agency, one shall be an employee of a small security agency, and one shall be a citizen at large.

C. Term. Term of membership shall be for three (3) years. Appointments to the Security Agency Advisory Board shall be made in such manner so as to achieve staggered three (3) year terms so that no more than three (3) of the initial appointee's terms shall expire in the same year.

D. Organization. The members of the Security Agency Advisory Board shall meet at such time and place as they may fix. They shall select one of their number as chairman and one as vice chairman, each of whom shall serve one year until their successors have been selected. The Security Agency Advisory Board shall meet in Council chambers or any other place suitable for conducting of public business as transacted by this Board on the second Wednesday of each month unless the Board establishes an alternative date and time. A majority of the Security Agency Advisory Board shall constitute a quorum for the transaction of business. A record of the Advisory Board's proceedings shall be kept.

1. Special Meetings. At the call of the chairperson or any other member of the Board, a special meeting may be held at any time and place of all the members of the Board, or by the presence and participation of all members of the Board at such meetings. Special meetings of the board may be held in Council chambers, or any other place suitable for the conducting of public business as transacted by this Board. Notice of special meetings, unless there is a consent by presence and presentation, shall be oral or written. When written the notice shall be sent not less than seven (7) working days before any such meeting. The notice, written or oral, shall include the specific purpose(s) of such meetings. If oral notice is given, it must be received not less than four (4) working days before any such meeting and no written notice need be sent to the members receiving such oral notice. No special meetings shall be held on any matter affecting a license application and/or applicant without full compliance with any applicable statutory notice provisions.

E. Staff Support. The City Clerk shall assist the Security Agency Advisory Board by receiving all applications, conducting investigations required herein, coordinating with other City departments when relevant, and scheduling public hearings. (Ord. 84-167; Ord. 86-86)

8-3-204: LICENSE REQUIRED; EXEMPTIONS; TRANSFERABILITY:

A. On or after the effective date of this ordinance

A) or in the event of any currently licensed contract security agency or private agency officer after April 1, 1985, no person shall operate a contract security agency or act as a private security officer unless licensed therefor as provided in this part.

B. The provisions of this part shall not apply to the following persons while engaged in the performance of their duties:

1. Sheriffs, undersheriffs, deputy sheriffs, police officers, Colorado state patrol officers, marshals, deputy marshals, District Attorney Investigators, investigative agents employed by the Colorado Bureau of Investigation, or Federal law enforcement officers who are employed full time in such capacity, including any time that such full-time law enforcement officers are employed as private security officers with approval of their departmental superiors.

2. A reserve police officer who performs duties for a local unit of government which granted him his reserve commission, while within the jurisdiction of that unit of government.

3. A proprietary security organization: Armed employees of a proprietary security organization shall be licensed in accordance with this Part.

4. No license granted under this Part or any renewal thereof shall be transferable from one person to another. (Ord. 84-167)

8-3-205: QUALIFICATIONS FOR LICENSE: Every applicant for a license provided for in this Part and, in the case of an applicant for a contract security agency's license, every principal of the applicant shall be at least eighteen (18) years of age and shall meet all other requirements specified in this Part for the license for which the applicant is applying; except that any applicant who intends to carry a firearm shall be at least twenty one (21) years of age. (Ord. 84-167)

8-3-206: FEES: The Licensing Officer shall charge fees for applications for original and renewal license and for copies of licenses or identification cards. Such fees shall be determined and collected by the Licensing Officer pursuant to City Code Section 8-1-501 et. seq. (Ord. 84-167)

8-3-207: APPLICATION REQUIREMENTS FOR CONTRACT SECURITY AGENCY'S LICENSE:

- A. Every application for a license to operate as a contract security agency shall contain the following:

1. The full name and any other names under which each principal is or has been known, address and telephone number, date of birth, social security number, and full description of each principal and registered agent for the applicant;

2. The full name and any other names under which the local managing principal is or has been known, residence address, residence telephone number, date of birth, and social security number;

3. The name under which the applicant intends to do business and the address of the local principal place of business;

4. A description of the specific types of services to be rendered;

5. Two (2) recent passport size color photographs of each local principal and two (2) classifiable sets of fingerprints of each local principal;

6. A statement of each local principal's experience and qualifications;

7. A list of the residence address of each local principal for the ten (10) years prior to the date of the application;

8. A statement containing the date and place of any criminal conviction of any principal of the applicant;

9. A statement containing information relating to the denial, suspension, or revocation of any license to provide security services held by any principal of the applicant, whether in this State or any other state; and

10. A release statement signed by the applicant allowing the City to check all known records of the applicant and review any criminal record pertaining to the applicant.

- B. An application for an original or renewal license shall be accompanied by:

1. The fee authorized pursuant to City Code Section 8-1-501 et. seq.

2. A certificate of workmen's compensation insurance;

- B) 3. A statement of the work history of each local principal of the applicant;

4. Evidence of current public liability and property damage insurance policies in the name of the licensee with the City also named as an insured in the following amounts:

Bodily Injury

Each person.....\$250,000.00
Each accident..... 500,000.00

Property Damage

Each accident.....\$300,000.00
Aggregate..... 500,000.00

Each policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the City Clerk at least thirty (30) days in advance of the effective date of any reduction or cancellation or change of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the license until the coverage shall be reinstated. All policies shall be kept in force and effect for the period of the license.

The licensee shall be responsible for any and all damage to property or injury to persons arising out of the exercise of the license, and the licensee shall indemnify and save harmless the City and its officers, agents and employees from all suits, actions or claims of injuries received or sustained by any person or persons or property on account of any act or omission of the licensee thereunder, its agents or employees, or on account of the failure of the licensee to observe the provisions of this Part and further, to faithfully perform and honestly conduct all activities undertaken by the contract security agency and each private security officer employed thereunder. (Ord. 84-167; Ord. 86-74; Ord. 86-86)

8-3-208: CONTRACT SECURITY AGENCY'S LICENSE:

- A. Each contract security agency's license shall specify the name under which the licensee is to operate, the address of the principal place of business, the expiration date, the number of the license, and any other information the Licensing Officer deems necessary.
- B. A license of a contract security agency shall expire three (3) years from the date of issuance, unless suspended or revoked earlier.

- C. The contract security agency's license shall be at all times posted in a conspicuous place in the licensee's principal place of business in the City.
- D. The Licensing Officer shall furnish each local principal of the agency with an identification card specifying the name of the holder of the card and the name and number of the contract security agency. (Ord. 84-167)

8-3-209: REQUIREMENTS OF CONTRACT SECURITY AGENCIES:

- A. Every licensed contract security agency shall keep the Licensing Officer informed of the address of the local principal place of business. A licensed contract security agency shall notify the Licensing Officer within ten (10) days of any change of address of the local principal place of business.
- B. Each licensed contract security agency shall notify the Licensing Officer within ten (10) days after the removal, replacement, or addition of any local principal. Every new local principal shall complete an application with the Licensing Officer as provided in Section 8-3-207.
- C. No contract security agency shall knowingly permit a private security officer employed by such agency to carry a firearm in the course of his employment unless such private security officer is so authorized in accordance with Section 8-3-214.
- D. Every licensed contract security agency shall, if possible, be responsible for returning to the Licensing Officer the license or identification card of any private security officer employed by the contract security agency if such private security officer's license is suspended or revoked.
- E. It shall be the responsibility of the contract security agency to notify the Licensing Officer within seventy two (72) hours of the termination and/or suspension of any merchant patrolman's license sponsored under the contract agency's license and to give special causes for this termination and/or suspension. This notice shall be made by written instrument and shall be so designated as such by signature of a listed principal with the contract security agency.
 - 1. This instrument of notification shall be made a part and parcel of the licensee's file, but shall be excluded from public review, and for the express purpose of the Licensing Officer or his designated representatives with the

E1) exception of:

- a. The submission by a party or parties of a fully executed "Waiver of Information" as prescribed by known and accepted Privacy Act Regulations and who have shown a need for access to the licensee's file, as determined by the Licensing Officer or his designated representatives. (Ord. 84-167; Ord. 86-86)

8-3-210: APPLICATION REQUIREMENTS FOR PRIVATE SECURITY OFFICERS:

- A. Every application for an original or renewal private security officer's license shall contain the following:
 - 1. The applicant's full name and any other names under which the applicant is or has been known, date of birth, social security number, and current residence address and a telephone number where the applicant may be contacted;
 - 2. Two (2) recent color passport size photographs of the applicant and two (2) sets of classifiable fingerprints of the applicant;
 - 3. A list of the residence addresses of the applicant for the ten (10) years prior to the date of application;
 - 4. A statement of the work history of the applicant for the ten (10) years prior to the date of application;
 - 5. A statement containing the date and place of any criminal conviction of the applicant;
 - 6. A statement containing information relating to the denial, suspension, or revocation of any private security officer's license held by the applicant, whether in this state or any other state;
 - 7. A statement of the applicant's medical history; and
 - 8. A release statement signed by the applicant allowing both the City and employer to check all known records of the applicant and review any criminal record pertaining to the applicant.
- B. An application for an original or renewal license shall be accompanied by:
 - 1. The fee authorized pursuant to City Code Section 8-1-501 et. seq. (Ord. 84-167; Ord. 86-86)

8-3-211: PRIVATE SECURITY OFFICERS' LICENSES:

- A. Each license for a private security officer shall be in the form of an identification card and shall contain the name of the applicant, his residence address, a recent photograph of the applicant, the expiration date, the number of the license, the signature of the applicant, and the name of his employer. Every licensed private security officer shall keep the Licensing Officer informed of his correct name and his residence address and shall notify the Licensing Officer within ten (10) days of any change in name or address or in the name of his employer.
- B. Each private security officer's license shall expire three (3) years from the date of issuance, unless suspended or revoked earlier.
- C. Each license shall be on the person of the licensee at all times the licensee is working in the capacity of a private security officer and shall be exhibited upon request by a peace officer.
- D.
 - 1. A private security officer shall not carry a firearm in the course of his employment unless he has taken and passed a firearms safety and familiarization course and is certified by his employer to carry firearms. The Licensing Officer shall indicate on the licensee's identification card whether he is authorized to carry a firearm in the course of his employment.
 - 2. This Section shall not be construed to grant the licensee a right to carry a firearm on duty without the consent of his employer. (Ord. 84-167)

8-3-212: DENIAL, SUSPENSION, OR REVOCATION OF LICENSE:

- A. A private security officer's license or a contract security agency's license may be denied, suspended, or revoked if the applicant or a principal of the applicant:
 - 1. Has been convicted of a felony in this State or any other state or of a crime in any other state which, if committed in this State, would be a felony;
 - 2. Has made a wilful misrepresentation in applying for and obtaining a license;
 - 3. Has been previously denied a license under this part or has had a license issued under this

- A3) part suspended or revoked, unless the Licensing Officer reinstated such license;

4. Was a principal of a contract security agency whose license was revoked, unless the Licensing Officer determines that he was not responsible for the revocation;

5. Has been convicted of operating without a license under this Part or performing any act for which a license is required under this Part; or

6. Has violated any of the provisions of Section 8-1-801 of this Chapter or any of the provisions of this Part.

- B. The denial of a license may be appealed to the Security Agency Advisory Board, and if denied by the Security Agency Advisory Board is reviewable only by a court under Colorado Rule of Civil Procedure 106(a)(4).

1. The City Clerk shall have full authority to automatically suspend a license pending the outcome of the investigation prior to an appeal hearing to be held by the Security Agency Advisory Board.

2. All testimony given before the Board shall be sworn testimony, with all proceedings duly recorded.

3. Upon the Board's decision to suspend or revoke a license at the conclusion of an appeal hearing, the City Clerk's office shall automatically take possession of such license.

- C. The suspension or revocation of a contract security agency license or a private security officer's license shall be subject to the provisions of City Code Section 8-1-801, et. seq.
- D. Upon suspension or revocation of a private security officer's license, the company by whom the licensee is employed shall immediately return the employee's identification card to the Licensing Officer. Upon suspension or revocation of a contract security agency's license, each principal of such agency shall immediately return the license or identification card to the Licensing Officer. (Ord. 84-167; Ord. 86-86)

8-3-213: UNLAWFUL ACTS; VIOLATIONS; PENALTY:

- A. No person shall operate a contract security agency or act as a private security officer unless licensed pursuant to the provisions of this part.

- B. No person shall knowingly employ any individual to perform the duties of a private security officer who is not licensed pursuant to the provisions of this part or whose license has been suspended or revoked by the Licensing Officer.
- C. No person shall make wilful misrepresentation in applying for or obtaining a license pursuant to the provisions of this part.
- D. No licensee or principal of a contract security agency shall fail to surrender to his employer or to the Licensing Officer his license or identification card when required under this part.
- E. No licensee or principal of a contract security agency shall knowingly allow his identification card to be used by any other person, and no person shall knowingly use an identification card issued to some other person.
- F. Each licensee shall turn over any person arrested immediately to the Police Department or other public law enforcement agency. Nothing contained herein shall be construed as authorizing any licensee or permittee to make an arrest not authorized under the laws of the State of Colorado to be made by a private citizen.
- G. It shall be unlawful for any licensee to fail to report to the Police Department or other public law enforcement agency any crimes or suspicious circumstances as soon as possible and to cooperate with the Police Department or such other public law enforcement agency in the investigation of the same whenever so requested.
- H. No person shall publish any advertisement, letterhead, circular, or statement of any kind which suggests that it is a law enforcement agency or an instrumentality, division, or agency of the State, City, or Federal government.
- I. No person, while performing the duties of a private security officer, shall knowingly wear or display any badge, insignia, shield, patch, or pattern which indicates or is intended to indicate to the public that he is a sworn peace officer or which contains or includes the word "police" or the words "public safety". The word "security" or "guard" must be prominently displayed on a patch of the outer uniform, if a uniform is worn.
- J. No person shall, while performing any private security services, have or utilize any vehicle or equipment displaying the word "police", the words "law enforcement officer", or the words

- J) "public safety" or display any sign, shield, marking, accessory or insignia that indicates or is intended to indicate to the public that such vehicle or equipment is operated by a law enforcement agency.
- K. No private security officer may carry any firearm other than allowed by his employer.

8-3-214: **PRIVATE SECURITY OFFICER TRAINING:**

- A. Every employer of a private security officer shall insure that such officer has received adequate training. Such training shall be appropriate for each officer and his assigned duties, and no person shall be assigned to perform the duties of a private security officer unless he has a probationary license until such training has been satisfactorily completed.
- B. The training program required for private security officers prior to the issuance of an original license shall be that program which is promulgated by the Licensing Officer upon recommendation and advice from the Security Agency Advisory Board. Such training program shall consist of preassignment training, basic security officer training, and minimum arms training. Any specialized training beyond this training shall be the responsibility of the employer. Verification of training may be determined by training tests administered by the Licensing Officer. (Ord. 84-167)

8-3-215: **PROBATIONARY LICENSE:**

- A. The Licensing Officer is hereby authorized to issue a probationary license to successful applicants for private security officer licenses conditioned upon the successful completion of preassignment training. The condition of the probationary license shall be that the private security officer complete basic security officer training within three (3) months of the issuance of the probationary license. (Ord. 84-167)
- B. Upon application by a person for such a probationary license, the licensing officer shall issue a written authorization to said person allowing that person to be employed and operate as a licensed security officer in the City for a period of thirty (30) days pending receipt of a background investigation of the person and issuance of the formal probationary license. Such an authorization shall be continued upon:
 1. The applicant providing evidence to the

B1) licensing officer that the security agency that seeks to employ applicant has completed a preliminary background investigation of applicant and has found applicant qualified to perform duties as a private security officer based upon that investigation. Such evidence may include but shall not be limited to a statement by said security agency that such a preliminary background investigation has been completed.

2. The Police Department shall also undertake a local records review; and provide the results thereof to the licensing officer.

3. The applicant shall provide the licensing officer with a statement from his proposed employer that applicant will only be employed in an unarmed capacity during this initial thirty (30) day period or until issuance of the actual probationary license, whichever is sooner. Such applicant shall only act in an unarmed capacity during this initial period.

4. That during said initial thirty (30) day period, or until issuance of the actual probationary license by the licensing officer, the proposed employer security agency shall hold the City of Colorado Springs harmless and agrees to indemnify the City of Colorado Springs in any action or claim for damages arising from the actions or employment of said applicant. (Ord. 84-167; Ord. 85-145)

A) date of expiration and the holder's current municipal license issued. No temporary license shall grant authority to carry a firearm without the separate approval of the Chief of Police or his designee, and shall be clearly indicated on such permit. (Ord. 84-167)

8-3-216: **TEMPORARY LICENSE:**

A. Any person who shall carry a valid and current license issued by another municipal entity within the State of Colorado, may apply for issuance of a temporary security officer license which shall be valid for a period of not more than seventy two (72) hours. Such application submitted to the Licensing Officer shall be subject to verification of the applicant's current municipal license status. Upon issuance of a temporary license, the holder shall be subject to all other regulations set forth herein while operating as the security agent within Colorado Springs, and subject to the City's authority to enforce, deny or revoke any such temporary license. Such license shall require the holder to carry the licensee which shall clearly indicate the

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 3 SALES OF SERVICES

PART 3 TREE SERVICE

SECTION:

- 8-3-301: Definitions
- 8-3-302: License Required
- 8-3-303: Exceptions
- 8-3-304: License Fees, Term
- 8-3-305: Application to and Examination by Arborist Board
- 8-3-306: Insurance Required
- 8-3-307: Name and Address on Vehicles
- 8-3-308: Rules and Regulations
- 8-3-309: Violation of Rules and Regulations

8-3-301: **DEFINITIONS:**¹

TREE: Any woody plant which is fifteen feet (15') or higher including conifers.

TREE SERVICE BUSINESS: The cutting, training, trimming, spraying, pruning or removing of trees or any parts thereof for hire. (Ord. 75-164; 1968 Code § 5-64C)

8-3-302: **LICENSE REQUIRED:** It shall be unlawful for any person to operate or engage in the tree service business as provided herein without first having obtained a license therefor. (Ord. 75-164; 1968 Code § 5-64A)

8-3-303: **EXCEPTIONS:**

- A. State License. No license shall be required if the cutting, trimming, pruning or removal of trees is incidental in connection with a business carried out and licensed under the "Colorado Nursery Act".²
- B. Spraying; Registration. No license shall be required for the business of spraying trees, shrubs, plants, vines or other plant material.

- B) However, no person engaging in the business of spraying plants shall conduct such business in the City without first having registered with the Director of Parks and Recreation or his designated representative, his current license required under the "Commercial Pesticide Applicators Act".³ (Ord. 75-164; 1968 Code § 5-64B,D)

8-3-304: **LICENSE FEES, TERM:** The license fee for a tree service license shall be as set out in Section 8-1-508 of this Chapter, and each and every tree service license shall expire January 1 of each year. (Ord. 75-164; 1968 Code § 5-64G)

8-3-305: **APPLICATION TO AND EXAMINATION BY ARBORIST BOARD:** The Licensing Officer shall forward each application for a tree service license to the Secretary of the Arborist Board for review and examination by the Arborist Board.⁴ Before a tree service license shall be issued, the Arborist Board shall examine the applicant for such license, either orally or in writing, or both, covering the applicant's qualifications and competence to engage in the tree service business, and the Arborist Board shall require a demonstration of actual practical ability and competence or the furnishing of such evidence of previous satisfactory experience as in its professional judgment deems proper. (Ord. 75-164; 1968 Code § 5-64F)

8-3-306: **INSURANCE REQUIRED:**

- A. No tree service license shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the City also named as insured: (Ord. 76-151)

1. For definitions of general application, see Section 1-1-203 of this Code.

2. C.R.S. 1973 §§ 35-26-101 et seq.

3. C.R.S. 1973 §§ 35-10-101 et seq.

4. For provisions regarding the Arborist Board, see Chapter 18, Article 1, Part 4 of this Code.

- A) Bodily Injury
 Each person.....\$100,000
 Each accident.....\$300,000
- Property Damage
 Each accident.....\$100,000
 Aggregate.....\$300,000
- B. Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the Licensing Officer at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the license until coverage shall be reinstated. All policies shall be kept in force for the period of the license.
- C. The licensee shall be responsible for any and all damage to property or injury to persons arising out of the exercise of the license, and the licensee shall indemnify and save harmless the City and all of its officers, agents and employees from all suits, actions or claims of injuries received or sustained by any person or property on account of the exercise of the license or of any act or omission of the licensee thereunder, his agents or employees or on account of the failure of the licensee to comply with the provisions of this Part 3. (Ord. 75-164; Ord. 76-151; 1968 Code § 5-64I)

rules and regulations covering all those aspects of the conduct of the tree service business, and of any and all parts thereof directly affecting the public health and safety, and requiring the use of such safety appliances, apparatus and equipment as are reasonably necessary for the protection of the workmen therein, and the public and private property. It shall be grounds for suspension or revocation of a license for any licensee under this Part 3 to violate, or to fail, neglect or refuse to comply with, any of such rules or regulations. (Ord. 75-164; 1968 Code § 5-64J)

8-3-309: VIOLATION OF RULES AND REGULATIONS: The Director of Parks and Recreation shall issue order-notices for violations of rules and regulations promulgated by the Arborist Board. Any person receiving such order-notice may appeal the same to the Arborist Board. The Arborist Board may hear any complaints against any tree service business. (Ord. 75-164; 1968 Code § 5-64L)

8-3-307: NAME AND ADDRESS ON VEHICLES: All trucks or other vehicles operated by any licensee for the transportation of the equipment used by him in such business, excluding towed vehicles, shall have the name and address of such licensee displayed on both sides thereof in plain and legible letters not less than three inches (3") in height. Such lettering shall be kept in such condition as to permit the same to be readily distinguished and read at a distance of at least sixty feet (60'). It shall be unlawful and it shall be grounds for revocation of his license for a licensee to operate any such vehicle or cause any such equipment to be operated or drawn or towed upon the public ways within the City unless such name and address is so displayed thereon. (Ord. 75-164; 1968 Code § 5-64K)

8-3-308: RULES AND REGULATIONS: The Arborist Board may adopt reasonable

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 3 SALES OF SERVICES

PART 4 FUMIGATORS AND EXTERMINATORS¹

SECTION:

- 8-3-401: License Required; Fee, Term
 8-3-402: Knowledge of Business Required
 8-3-403: Insurance Required
 8-3-404: Fumigation, Fumigants; Requirements
 8-3-405: Public Health, Safety and Welfare

8-3-401: LICENSE REQUIRED; FEE, TERM: It shall be unlawful for any person to engage in the business of fumigation or pest extermination, for profit or otherwise, without first having secured a license therefor. The license fee for the business of fumigation or pest extermination shall be as set out in Section 8-1-508 of this Chapter, and each and every license for the business of fumigation or pest extermination shall expire on January 1 of each year. (Ord. 75-164; 1968 Code § 5-63A,B,C)

8-3-402: KNOWLEDGE OF BUSINESS REQUIRED: No license for the business of fumigation or pest extermination shall issue to any person unless he can demonstrate to the satisfaction of the Health Department an adequate knowledge of the fumigation or extermination business. (Ord. 75-164; 1968 Code § 5-63D)

8-3-403: INSURANCE REQUIRED:

- A. No license for the business of fumigation or pest extermination shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the City also named as insured:

Bodily Injury	
Each person	\$ 50,000.00
Each accident	300,000.00

- | | |
|--------------------|--------------|
| A) Property Damage | |
| Each accident | \$ 50,000.00 |
| Aggregate | 300,000.00 |

- B. Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the City at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the license until coverage shall be reinstated. All policies shall be kept in force for the period of the license. (Ord. 75-164; 1968 Code § 5-63E)

8-3-404: FUMIGATION, FUMIGANTS; REQUIREMENTS:

- A. Notification of Fumigation. Prior to the fumigation of a building or place, the licensee shall notify the Fire Chief, Police Chief and Health Department of such fumigation.
- B. Seal Openings. All openings in any building or place to be fumigated must be sealed to prevent escape of toxic fumigants.
- C. Approval of Fumigants. All insecticides, rodenticides or fumigants must be approved by the Department of Agriculture or the State of Colorado prior to use by licensees regulated herein.
- D. Distribution of Fumigants. Insecticides, rodenticides and fumigants must be distributed in accordance with the directions of the Health Department. (Ord. 75-164; 1968 Code § 5-63F,G,H,I)

8-3-405: PUBLIC HEALTH, SAFETY AND WELFARE: It shall be unlawful for any licensee or employee or agent of such licensee regulated herein to operate or conduct a fumigation or pest extermination business in such a manner as to endanger the public health, safety and welfare. (Ord. 75-164; 1968 Code § 5-63J)

1. See article 10 of chapter 35, C.R.S. 1973 for Commercial Pesticide Applicators' Act, and see article 11 of chapter 35, C.R.S. 1973 for Structural Pest Control Act.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 3 SALE OF SERVICES

PART 5 ASH, GARBAGE, REFUSE, TRASH AND RUBBISH HAULERS

SECTION:

- 8-3-501: Definitions
- 8-3-502: License Required
- 8-3-503: License Fees, Term
- 8-3-504: Inspections
- 8-3-505: Equipment Used by Collectors
- 8-3-506: Vehicle Requirements
- 8-3-507: Location of Dumping

8-3-501: **DEFINITIONS:**¹

CODE ENFORCEMENT OFFICE: The Director of Community Development or his designated representative.

REFUSE: Includes ashes, refuse, trash, rubbish, garbage and other like waste materials. (Ord. 75-164; Ord. 82-225; 1968 Code § 5-62B)

8-3-502: LICENSE REQUIRED: It shall be unlawful for any person to haul, carry, collect or transport or cause to be hauled, carried, collected or transported any ashes, garbage, refuse, trash or rubbish or like waste materials over any of the streets, alleys or avenues of the City for hire without first having obtained a license therefor. (Ord. 75-164; 1968 Code § 5-62A)

8-3-503: LICENSE FEES, TERM: The license fee for the hauling of ashes, garbage, refuse, trash, rubbish and other like waste materials shall be as set out in Section 8-1-508 of this Chapter, and all such licenses for the hauling of ashes, garbage, refuse, trash, rubbish and other like waste materials shall expire on March 1 of each year. (Ord. 75-164; 1968 Code § 5-62C,D)

8-3-504: **INSPECTIONS:**

- A. **Code Enforcement Inspection.** Each and every application for a license required herein shall be reviewed by the Code Enforcement Office. Upon receipt of such application, the Code Enforcement Office shall make necessary inspections and shall submit its recommendations in writing to the Licensing Officer.
- B. **Vehicle Inspection.** Before any license shall be issued as provided for herein, the applicant shall present the truck or conveyance to be used under such license for inspection by the Code Enforcement Office, and no license shall be granted unless the truck or conveyance conforms with this Part 5 and the regulations of the Code Enforcement Office adopted thereunder. (Ord. 75-164; Ord. 82-225; 1968 Code § 5-62H,J)

8-3-505: **EQUIPMENT USED BY COLLECTORS:**

- A. **Garbage, Refuse or Household Rubbish.** The only vehicle and equipment which may be used by licensed collectors in the collection and transportation of garbage, refuse or household rubbish within the City are packer-type vehicles, which shall mean that vehicle advertised, known and marketed as a packer-type truck; provided, however, that on the recommendation of the Code Enforcement Office, an equivalent vehicle may be used.
- B. **Rubbish, Other.** Licensed collectors in the collection and transportation of other rubbish within the City may use any type of vehicle which is equipped with sides and back to ensure that such rubbish shall not fall from the truck and which is equipped to permit the covering of the material with a tarpaulin, net or other suitable substitute to ensure that rubbish will not escape on the City streets or adjacent property.

¹ For definitions of general application, see Section 1-1-203 of this Code.

- C. **Leakproof Containers Required.** It shall be unlawful for any person to haul, transport, convey or collect ashes, garbage, refuse, trash, rubbish or any like waste materials in anything other than a leakproof container with a tight-fitting cover.
- D. **Hot Ashes.** It shall be unlawful for any person to haul, transport, convey or collect hot ashes in anything except a leakproof metal container with a tight-fitting cover. (Ord. 75-164; Ord. 82-225; 1968 Code § 5-62F,G,K)

8-3-506: **VEHICLE REQUIREMENTS:**

- A. **Cleaning of Vehicles.** All vehicles and equipment used by licensed collectors to transport garbage and household rubbish shall be periodically steam cleaned or pressure cleaned with cleaners, detergents or their equivalent, so that such equipment shall be kept in a clean and sanitary condition to the satisfaction of the Code Enforcement Office.
- B. **Display of Information.** All vehicles used by licensed collectors to transport garbage and household rubbish shall display the name and telephone number of the owner on the door panels or on the sides of the packer of the vehicle. Also, all such vehicles shall prominently display the identification decal affixed as provided in Section 8-1-603 of this Chapter. This decal shall be affixed to the vehicle by the Licensing Officer or his designated representative. (Ord. 75-164; Ord. 82-225; 1968 Code § 5-62L,M)

8-3-507: LOCATION OF DUMPING: No person shall dump or deposit any ashes, garbage, refuse, trash, rubbish or any like waste materials at any place within the City except at a duly authorized and licensed solid waste disposal site or disposal facility or outside the City except in such places as may be duly authorized or designated by the Code Enforcement Office.¹ (Ord. 75-164; Ord. 82-225; 1968 Code § 5-62N)

1. See Chapter 10, Article 5 of this Code for procedures for designation of solid waste disposal sites and facilities.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 4 AUCTIONEERS, PEDDLERS AND PAWNBROKERS

PART 1 AUCTIONEERS

SECTION:

- 8-4-101: Definitions
- 8-4-102: License Required; Fee, Term
- 8-4-103: Bond Requirements
- 8-4-104: Records Required
- 8-4-105: Conduct of Sales
- 8-4-106: Offenses and Violations
- 8-4-107: Exceptions

8-4-101: DEFINITIONS:¹

AUCTIONEER: Whoever shall sell or offer to sell any goods, wares, merchandise, produce, livestock, vehicles of any description, or any other personal property, or any real estate or interest therein at any store, stand or other place in the City, by public outcry for his own gain or profit, or shall advertise or in any other way hold himself out as an auctioneer for public patronage, or shall receive fees as a commission for such services.(Ord. 75-164; 1968 Code § 5-73B)

8-4-102: LICENSE REQUIRED; FEE, TERM: It shall be unlawful for any person to conduct or carry on the business of auctioneer without first obtaining a license therefor.

The fees for an auctioneer's license shall be either on a daily basis for each day an auction is in progress, or in lieu thereof on an annual basis as set out in Section 8-1-508 of this Chapter. A daily auctioneer's license shall expire as noted upon the license and an annual auctioneer's license shall expire on December 31 of each year. (Ord. 75-164; 1968 Code § 5-73A,D,E)

8-4-103: BOND REQUIREMENTS:

A. The applicant at the time of filing his application for an auctioneer's license with the Licensing Officer shall also file with the

- A) Licensing Officer a bond payable to the City for the use and benefit of each and every purchaser at such auction. Such bond shall be in the principal sum of at least ten percent (10%) of the gross invoice value of all the articles proposed to be sold at such auction, as shown by the required inventory. In no event shall the principal of said bond be less than four hundred dollars (\$400.00). Said bond shall be conditioned for the full and prompt payment by the applicant of all damages, loss, costs and attorneys' fees resulting to or sustained by or accruing to any purchaser of any article purchased by him at such auction, through or by reason of any material misrepresentation or false presentation of any material fact by any person conducting or aiding in conducting such auction for which shall accrue or be incurred by reason of any violation of the provisions of this Section. Such bond shall be duly executed by the applicant and by a surety company duly authorized to do business in the State of Colorado, or by two (2) taxpaying residents of El Paso County, Colorado, who are approved by the City Attorney as good and sufficient sureties. Said bond shall be in a form approved by the Licensing Officer.
- B. Any purchaser of any article at such auction is empowered to bring suit in any court of competent jurisdiction on said bond to recover any loss, costs or attorneys' fees suffered, sustained or paid by him on account of the violation of any of the provisions of this Part 1 or of said bond.
- C. An applicant for an auctioneer's license shall file with the Licensing Officer a corporate surety bond or a bond signed by one or more Colorado sureties approved by the City Attorney, which bond shall run to the City in the penal sum of one thousand dollars (\$1,000.00), shall be approved by the City Attorney as to form and sufficiency and shall be conditioned for the faithful compliance with the terms of this Part 1. Said bond may be

1. For definitions of general application, see Section 1-1-203 of this Code.

- C) conditioned to cover a licensee's operations over a period of time in excess of that permitted by a day-to-day license. (Ord. 75-164; 1968 Code § 5-73C)

8-4-104: RECORDS REQUIRED: Each person to whom an auctioneer's license shall be granted shall keep a full, true and complete record of each sale made by him, which record shall contain a description of the article sold and the price for which it was sold. Such record shall be subject to examination by the Licensing Officer. (Ord. 75-164; 1968 Code § 5-73F)

8-4-105: CONDUCT OF SALES:

- A. **Delivery of Articles Sold; Police Surveillance.** It shall be unlawful for any person required to be licensed under this Part 1 to deliver or permit or cause to be delivered to a purchaser any article other than the article bid for and sold at auction. Any police officer of this City shall have access to all parts of the premises where articles are being sold or wrapped by such licensee.

B. **Inventory Required.**

1. Attached to an application for an auctioneer's license or within twenty four (24) hours in advance of any auction, there shall be filed by the applicant for the auctioneer's license an inventory of all articles proposed to be sold by him at such auction. Such inventory shall set out and describe the quality, quantity and kind or grade of each item thereof and the invoice cost of each item. To such inventory there shall be attached an affidavit that the inventory is in all respects true and correct. When the applicant is an individual, the affidavit shall be made by him; when a co-partner, the affidavit shall be made by one of the partners; and when the applicant is a corporation, the affidavit shall be made by its president, general manager, secretary or treasurer.

2. Each application, inventory and affidavit shall be kept on file in the office of the Licensing Officer and shall be open to inspection at any time during regular business hours by any interested person.

- B) 3. No article or property mentioned in this Part 1 shall be sold or offered for sale at any auction unless it be included and described in said inventory.

- C. **Bidders to be Designated.** The auctioneer at any auction sale, upon announcing each bid for any article offered for sale, shall make some audible description of the person making such bid and also point out or otherwise designate the location of such bidder on the premises.

- D. **Invoice Required, Contents.** It shall be the duty of the owner of any article sold at such auction for the sum of two dollars (\$2.00) or more to give each purchaser, upon demand within forty eight (48) hours, an invoice containing a description of each article so sold and the selling price thereof and containing also a statement of each and every representation made concerning the cost, quality or maker of each said article at or before the sale thereof. (Ord. 75-164; 1968 Code § 5-73H,J,M,N)

8-4-106: OFFENSES AND VIOLATIONS:

- A. **Misrepresentation.** It shall be unlawful for any person licensed under this Part 1 to misrepresent the value or character of any property offered for sale by him.

- B. **False Advertising.** It shall be unlawful for the auctioneer or any person making or aiding in the carrying out of such sale to falsely advertise or falsely state any material fact relating to such sale or the goods to be sold at such sale.

- C. **False Bidding, Downhill Selling.**

1. It shall be unlawful for any person to act as a buy-bidder or what is commonly known as a "capper" or a "booster" at any such auction or to offer or make any false bid or to pretend to buy any article sold or offered for sale at such auction without in good faith intending to purchase and pay for the same.

2. It shall be unlawful for any person to engage in or permit at any such auction "down-hill" selling or offering any article at the high price and then offering the same for sale at

C,2) successively lower prices. (Ord. 75-164; 1968 Code § 5-73G,K,L)

8-4-107: **EXCEPTIONS:** This Part 1 shall not apply to any officer of court, tax collector or other person conducting a sale under and by virtue of a court process, mortgage or provision of law. (Ord. 75-164; 1968 Code § 5-73I)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 4 AUCTIONEERS, PEDDLERS AND PAWNBROKERS

PART 2 PAWNBROKERS

SECTION:

- 8-4-201: Purpose
- 8-4-202: Definitions
- 8-4-203: License Required; Fee; Term
- 8-4-204: Bonds Required
- 8-4-205: Required Acts of Pawnbrokers
- 8-4-206: Identification Acceptable
- 8-4-207: Inspection Surrender
- 8-4-208: Hours of Business
- 8-4-209: Delegation of Authority
- 8-4-210: Authority to Adopt Forms
- 8-4-211: Prohibited Acts by a Pawnbroker in the Course of his Business
- 8-4-212: Acts Proscribed
- 8-4-213: Penalty

8-4-201: **PURPOSE:** The purpose of this part is to provide for the licensing and regulation of pawnbrokers in conformity with the provisions of Article 56 of Title 12, C.R.S. The City hereby finds and determines that it is necessary to regulate and license the business of pawnbroking as provided in Section 12-56-102, C.R.S. and that certain regulations more restrictive than provided in Article 56 of Title 12, C.R.S. are appropriate.

The City hereby finds and determines that law enforcement officers are hindered in the identification and recovery of articles which may be subject to a contract for purchase unless there is provided a record keeping system by pawnbrokers for tangible personal property purchased by a pawnbroker or subject to a contract for purchase. Furthermore, the requirement of a retention period by persons engaged in the business of pawnbroking is necessary to assist the police department in the recovery of such articles on behalf of the rightful owner.

Accordingly, in the interest of safeguarding the public health, safety and welfare, it is the intent of the City, by enacting this Part, to aid law enforcement officers in the discovery and identification of sellers of stolen

tangible personal property, which is the subject of a contract for purchase or purchased by a pawnbroker, by requiring the licensing of persons engaged in the business of pawnbroking, by providing a mandatory record keeping and reporting system by such businesses, and by providing a retention period during which such tangible personal property may not be altered or disposed of. (Ord. 84-131)

8-4-202: DEFINITIONS:

CONTRACT FOR PURCHASE: Commonly known as a "Pawn" transaction, is a contract entered into between a pawnbroker and a customer pursuant to which money is paid to the customer by the pawnbroker on the delivery of tangible personal property by the customer to the pawnbroker, on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed ninety (90) days, has the option to cancel said contract. (This is not the same as "Purchase Transaction" as defined herein)

DECLARATION OF OWNERSHIP: A document which shall contain a detailed description of the item(s) subject of a contract for purchase or purchase transaction, a statement that the item(s) is(are) totally owned by the customer, how long the customer has owned said item(s), whether the customer or a third person found the item(s) and if so, the details of the finding, and signed by the customer.

FIXED PRICE: The amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed:

1. One-tenth ($\frac{1}{10}$) of the original purchase price for each month plus the original purchase price on amounts of fifty dollars (\$50.00) or over; or,

2. One-fifth ($\frac{1}{5}$) of the original purchase price for each month plus the original purchase price on amounts under fifty dollars (\$50.00).

FIXED TIME: That period of time, not to exceed ninety (90) days, as set forth in a contract for purchase, during which an option to cancel said contract exists.

IDENTIFICATION NUMBER: A serial or motor number placed by the manufacturer upon tangible personal property as a permanent, individual identifying mark.

LEGIBLE: Writing or typewriting which is easily capable of being read.

LOCAL LAW ENFORCEMENT AGENCY: The Colorado Springs Police Department, the El Paso County Sheriff's Office or any other law enforcement agency having jurisdiction in the locality in which the customer enters into a contract for purchase or a purchase transaction.

LOCAL LICENSING AUTHORITY: The City Council of the City of Colorado Springs.

OBSCURE: To deliberately destroy, remove, alter, conceal, or deface so as to render illegible by ordinary means of inspection.

OPTION: The payment during the fixed time, of the fixed price agreed upon by the customer and the pawnbroker, which allows the customer to rescind the contract for purchase, following which, the customer is entitled to receive from the pawnbroker the tangible personal property subject of the contract for purchase.

OWNER'S IDENTIFICATION NUMBER: A number, letters or other distinguishing symbol, placed by the owner of the tangible personal property on the tangible personal property for purposes of identification.

PAWNBROKER: A person regularly engaged in the business of making contracts for purchase or purchase transactions in the course of his business.

PEACE OFFICER: Any sheriff, deputy sheriff, police officer or other law enforcing authority or officer except privately-employed security personnel.

PURCHASE TRANSACTION: The purchase by a pawnbroker in the course of his business of tangible personal property for resale, other than newly manufactured tangible personal property which has

not previously been sold at retail, when such purchase does not constitute a contract for purchase, as defined herein.

TANGIBLE PERSONAL PROPERTY: All personal property other than choses in action, securities, or printed evidence of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a contract for purchase or purchase transaction.

TOTALLY OWNED: Held free and clear from all economic or financial encumbrance; not subject to lien, security interest or mortgage. (Ord. 84-131)

8-4-203: LICENSE REQUIRED; FEE; TERM: It shall be unlawful for any person to do business as a pawnbroker, within the limits of the City, without first obtaining a license therefor. The fee for such license shall be as set out in Section 8-1-508 of this Chapter, and such pawnbroker's license shall expire on January 1 of each year. (Ord. 84-131)

8-4-204: BONDS REQUIRED: An applicant for a pawnbroker's license shall file with the licensing officer a bond in the penal sum of two thousand dollars (\$2,000.00) with two (2) or more sufficient sureties, to be approved by the City Attorney, conditioned for the due observance of all City ordinances at any time during the continuance of such license and for the safe keeping and return of all tangible personal property held pursuant to a contract for purchase by such pawnbroker in accordance with the provisions of this Part 2. (Ord. 84-131)

8-4-205: REQUIRED ACTS OF PAWNBROKERS:

- A. A pawnbroker shall keep a numerical register in which he shall record the following information: The name, address, and date of birth of the customer, and his driver's license number or other identification number from any other form of identification which is allowed for sale of valuable articles pursuant to section 18-16-103, C.R.S., or for the sale of secondhand property pursuant to section 18-13-114, C.R.S., the date,

- A) time, and place of the contract for purchase or purchase transaction, and an accurate and detailed account and description of each item of tangible personal property, including, but not limited to, any and all trademarks, identification numbers, serial numbers, model numbers, brand names, owner's identification numbers, and other identifying marks on such property. The pawnbroker shall also obtain a written declaration of the customer's ownership which shall state whether the tangible personal property is totally owned by the customer, how long the customer has owned the property, whether the customer or someone else found the property, and, if the property was found, the details of the finding.
- B. If the contract for purchase or the purchase transaction involves more than one item, each item shall, be recorded on the pawnbroker's register and on the customer's declaration of ownership.
- C. The customer shall sign his name in such register and on the declaration of ownership and receive a copy of the contract for purchase or a receipt of the purchase transaction.
- D. Such register shall be made available to any local law enforcement agency for inspection upon request at any reasonable time.
- E. The pawnbroker shall keep each register for at least three (3) years after the date of the last transaction entered in the register.
- F. A pawnbroker shall hold all contracted goods, (meaning goods obtained pursuant to a contract for purchase) upon the licensed premises for a period of ten (10) days following the expiration of the fixed time of the contract for purchase, during which time such goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.
- G. A pawnbroker shall hold all property purchased by him through a purchase transaction for thirty (30) days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property, shall not be displayed to the public and shall not be changed in form or altered in any way.

See Section 8-4-210.

- H. Every pawnbroker shall provide the local law enforcement agency, on a weekly basis, with two (2) copies of the records, on a form¹ to be approved by the local law enforcement agency, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to subsection A of this Section. The local law enforcement agency shall designate the day of the week on which the records and declarations shall be submitted.
- I. Every pawnbroker shall provide a safe place for keeping the tangible personal property of the customers. (Ord. 84-131)

8-4-206: IDENTIFICATION ACCEPTABLE: As provided for in Section 18-16-103, C.R.S., and in section 18-13-114, C.R.S., no licensee, pursuant to this Part, or any principal, employee, agent or servant of such licensee shall engage in a purchase transaction or shall enter into a contract for purchase with any customer without securing one of the following kinds of current and valid identification:

- A. Colorado driver's license;
- B. Identification card issued in accordance with section 42-2-402, C.R.S., which is an identification card issued by the State of Colorado;
- C. A driver's license containing a picture issued by another state;
- D. An identification card containing a picture issued by another state;
- E. A military identification card;
- F. A passport;
- G. An alien registration card;
- H. A nonpicture identification document issued by a state or Federal government entity, if the purchaser also obtains a clear imprint of the seller's right index finger or photo of seller at the time of the transaction. (Ord. 84-131)

8-4-207: INSPECTION SURRENDER:

- A. Inspection. A peace officer, acting within the course and scope of his employment, shall have the authority to inspect, without warrant and during normal business hours, all records required to be maintained by this Part.

A peace officer acting within the course and scope of his employment, shall have the authority to inspect without warrant and during normal business hours, those portions of licensee's business premises open to the public.

- B. Surrender of Tangible Personal Property. Upon request, the pawnbroker shall surrender to a peace officer, acting within the scope of his employment, any tangible personal property the subject of a purchase transaction or contract for purchase which the officer has probable cause to believe to be stolen property. (Ord. 84-131)

8-4-208: HOURS OF BUSINESS: It shall be unlawful for any person to engage in the business of a pawnbroker, or to keep open a pawnshop between the hours of eight o'clock (8:00) P.M. and eight o'clock (8:00) A.M. of any day, or on Sundays. (Ord. 84-131)

8-4-209: DELEGATION OF AUTHORITY: The City Council hereby delegates to the licensing officer, authority as provided for in Article 1 of Chapter 8 of this Code and as necessary for the implementation of the provisions of part 2 of Article 4 of Chapter 8 of this Code. (Ord. 84-131)

8-4-210: AUTHORITY TO ADOPT FORMS: The Chief of Police or his designee is hereby authorized to adopt and/or approve forms as necessary to enforce the provisions of this Part 2. All persons required to be licensed under this Part 2 shall provide information as required by these forms. All forms or other documents required for compliance with the provisions of this Part shall be legible.

8-4-211: PROHIBITED ACTS BY A PAWNBROKER IN THE COURSE OF HIS BUSINESS:

- A. No pawnbroker, employee, or agent of the pawnbroker shall enter into a contract for purchase or purchase transaction with any individual under the age of eighteen (18) years or with any person under the influence of alcoholic beverages or drugs.
- B. With respect to a contract for purchase, no pawnbroker, employee or agent of a pawnbroker may permit any customer to become obligated on the same day in any way under more than one contract for purchase agreement with the pawnbroker which would result in the pawnbroker obtaining a greater amount of money than would be permitted if pawnbroker and customer had entered into only one contract for purchase covering the same tangible personal property.
- C. No pawnbroker, employee or agent of a pawnbroker shall violate the terms of the contract for purchase.
- D. No pawnbroker, agent or employee of a pawnbroker shall enter into a contract for purchase or purchase transaction for any tangible personal property wherein the identification number, serial number, model number, brand name, owner's identification number or other identifying marks on such property have been totally or partially obscured.
- E. No pawnbroker, employee or agent of a pawnbroker shall enter into a contract for purchase or a purchase transaction when the property which is the subject of the contract for purchase or purchase transaction is other than tangible personal property as defined in Section 8-4-202 of this Code.
- F. The violation of this Part by an agent or employee of a pawnbroker shall be deemed to be a violation of this Part by the pawnbroker. (Ord. 84-131)

8-4-212: ACTS PROSCRIBED: Acts defined as a Class V Felony under the provisions of section 12-56-104(4) and section 12-56-104(5), C.R.S., shall not be a criminal offense under the provisions of this Part, provided however, that such violations shall still constitute a basis for suspension or license revocation as provided in this Article. (Ord. 84-131)

8-4-213: **PENALTY:** Excepting those acts which are specifically defined as violations of State law (See, Section 8-4-212) the penalty for any violation of this Article 4 shall be as stated in Chapter 1, Article 2 of this Code. (Ord. 84-131)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 4 AUCTIONEERS, PEDDLERS AND PAWNBROKERS

PART 3 HUCKSTERS AND PEDDLERS OF FOODSTUFFS

SECTION:

- 8-4-301: Definitions
 8-4-302: License Required; Fee, Term
 8-4-303: Restrictions on Peddling

8-4-303: RESTRICTIONS ON PEDDLING:²

- A. Obstruction of Streets. It shall be unlawful for any peddler of foodstuffs to stop his vehicle in or near the middle of any street or avenue, or so as to obstruct the free travel thereof. It shall be unlawful for any peddler of foodstuffs to cry his goods or wares louder than a natural tone or in any manner creating a nuisance. (Ord. 75-164; Ord. 81-159; 1968 Code § 5-68E,F)

8-4-301: DEFINITIONS:¹

FOODSTUFFS: Fruits, vegetables, meats, eggs, fowl or any article that may be used for food purposes, except milk, cream and buttermilk.

PEDDLING OF FOODSTUFFS: The selling or offering for sale of foodstuffs from house to house or on public ways or places whether by crying wares, hawking or soliciting orders or otherwise, and shall include the selling or offering for sale from a cart, wagon or other vehicle or from baskets or containers taken from place to place within the City, other than delivery from regularly established business houses.

PEDDLER: Any person who goes from house to house or place to place in the City selling or taking orders for or offering to sell or take orders for goods, wares or merchandise. (Ord. 75-164; 1968 Code § 5-68B)

8-4-302: LICENSE REQUIRED; FEE, TERM: It shall be unlawful for any person to peddle foodstuffs within the City without first obtaining a license therefor, as hereinafter provided. The license fee for peddling foodstuffs shall be as set out in Section 8-1-508 of this Chapter and shall expire on December 31 of each year. (Ord. 75-164; 1968 Code § 5-68A,C,D)

1. For definitions of general application, see Section 1-1-203 of this Code.

2. For further restrictions pertaining to health regulation, see Sections 10-4-105, 10-4-106 and 10-4-107 of this Code.

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 5 ANTIQUE, SECONDHAND AND JUNK DEALERS

PART 1 JUNK DEALERS

SECTION:

- 8-5-101: Definitions
- 8-5-102: License Required; Fee, Term
- 8-5-103: Bond Required
- 8-5-104: Records Required
- 8-5-105: Vehicle Requirements
- 8-5-106: Sanitary Requirements
- 8-5-107: Minors, Persons Under the Influence
- 8-5-108: Removal of Junk Regulated

8-5-101: **DEFINITIONS:**¹

JUNK: Old iron, lead, brass, steel, copper or other metal or old parts of machinery, rags or bagging, rope, rubber, bones, bottles and similar old materials, and includes dismantled or wrecked motor vehicles or other vehicles and the parts or components thereof, and those being wrecked or dismantled, and those held for the purpose of wrecking or dismantling. (Ord. 75-164; 1968 Code § 5-69B)

8-5-102: LICENSE REQUIRED; FEE, TERM: It shall be unlawful for any person to carry on the business of a junk dealer or shipper or storer of junk or of a junk collector or peddler within the City, without first obtaining a license therefor.

The fee for a junk dealer's license shall be as set out in Section 8-1-508 of this Chapter and such junk dealer's license shall expire on January 1 of each year. (Ord. 75-164; 1968 Code § 5-69A,D,E)

8-5-103: BOND REQUIRED: An applicant for a junk dealer's license shall file with the Licensing Officer a bond in the penal sum of one thousand dollars (\$1,000.00) with sureties to be approved by the City Attorney, conditioned that the principal named therein shall comply with all ordinances and applicable regulations as they pertain to junk dealers. (Ord. 75-164; 1968 Code § 5-69C)

8-5-104: RECORDS REQUIRED: Every licensee hereunder shall keep a book in which shall be recorded in the English language, on the day of each purchase or sale an accurate account and description of the junk purchased, received or sold; where and from or to whom received, purchased or sold, the amount or thing received therefor; and the time of the receipt, purchase or sale, which book as well as the articles purchased shall be open at all times to the inspection of any police officer or of any employee in the office of the Licensing Officer. (Ord. 75-164; 1968 Code § 5-69J)

8-5-105: **VEHICLE REQUIREMENTS:**

- A. License Required. It shall be unlawful for any licensee hereunder to use more than one vehicle for the collection of junk without obtaining a license therefor.
- B. License Fee for Additional Vehicles. The license fee for additional vehicles shall be as set out in Section 8-1-508 of this Chapter for each such additional license.
- C. Insignia for Vehicles. The Licensing Officer shall, upon the issuance of each additional license for vehicles, deliver to the licensee an insignia for each vehicle which such insignia shall at all times be displayed as provided in Section 8-1-603 of this Chapter, and which he shall surrender to the Licensing Officer when such license expires, is revoked, or suspended. (Ord. 75-164; 1968 Code § 5-69G,H,I)

8-5-106: SANITARY REQUIREMENTS: The premises upon which such junk is kept or stored together with the junk therein shall at all times be kept in a sanitary condition and open at all times to the inspection of any authorized employee of the Health Department. (Ord. 75-164; 1968 Code § 5-69F)

¹ For definitions of general application, see Section 1-1-203 of this Code.

8-5-107: MINORS, PERSONS UNDER THE INFLUENCE: It shall be unlawful for any junk dealer licensee or employee thereof to purchase or receive any junk from any minor without the written consent of the parents or guardian of such minor, or from any person who is at the time under the influence of alcoholic beverages or drugs, or from any person under circumstances where a reasonably prudent person would have cause to suspect that such goods were stolen. (Ord. 75-164; 1968 Code § 5-69)

8-5-108: REMOVAL OF JUNK REGULATED: It shall be unlawful for any junk dealer licensee or employee thereof to sell or remove from such location or from any car or vehicle in which he is storing junk, any article of junk purchased by him until the same shall have been in his possession at least seventy two (72) hours. (Ord. 75-164; 1968 Code § 5-69)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 5 ANTIQUE, SECONDHAND AND JUNK DEALERS

PART 2 SECONDHAND AND ANTIQUE STORES

SECTION:

- 8-5-201: License Required; Fee, Term
- 8-5-202: Exceptions to License Provisions
- 8-5-203: Records Required
- 8-5-204: Retention of Goods
- 8-5-205: Certain Purchases Prohibited

8-5-201: LICENSE REQUIRED; FEE, TERM: It shall be unlawful to engage in the business of keeping a secondhand store or antique store or a place of buying or selling secondhand goods, without first obtaining a license therefor.

The license fee for the business of keeping a secondhand store, antique store or a place for buying or selling secondhand goods shall be as set out in Section 8-1-508 of this Chapter, and all licenses provided for herein shall expire on December 31 of each year. (Ord. 75-164; 1968 Code § 5-70A,C,E)

8-5-202: EXCEPTIONS TO LICENSE PROVISIONS: The provisions of this Part 2 shall not apply to trade-in property, if the principal business is not the sale of secondhand or antique goods. (Ord. 75-164; 1968 Code § 5-70B)

8-5-203: RECORDS REQUIRED: Every person licensed under this Part 2 shall purchase and keep a book in the form prescribed by the Chief of Police, in which shall be legibly written in ink and in the English language, at the time of each purchase, an accurate description of the goods, articles or things purchased, the time of the receipt of the same, the name, residence and description of the person selling the same, which book, as well as the article purchased, shall at all reasonable times be open to the inspection of any police officer or any employee of the office of the Licensing Officer. (Ord. 75-164; 1968 Code § 5-70D)

8-5-204: RETENTION OF GOODS: It shall be unlawful for any person licensed under this Part 2 or any agent of such person to sell or remove from his place of business, any such secondhand goods, articles or things purchased as aforesaid, until the same shall have been in his possession at least ten (10) days, provided, that this shall not apply to furniture or household goods. (Ord. 75-164; 1968 Code § 5-70F)

8-5-205: CERTAIN PURCHASES PROHIBITED: It shall be unlawful for any person licensed under this Part 2, or any agent of such person, to purchase any secondhand goods, articles or things from any minor or from any person under the influence of alcoholic beverages or drugs, or from any person under circumstances where a reasonably prudent person would have cause to suspect that such goods were stolen. (Ord. 75-164; 1968 Code § 5-70G)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 5 ANTIQUE, SECONDHAND AND JUNK DEALERS

PART 3 PRECIOUS OR SEMI-PRECIOUS METAL OR STONE ARTICLES

SECTION:

- 8-5-301: Purpose
- 8-5-302: Definitions
- 8-5-303: License Required
- 8-5-304: Records Required; Identification Required
- 8-5-305: Retention Requirement
- 8-5-306: Inspection; Seizure
- 8-5-307: Prohibited Acts
- 8-5-308: Exceptions

8-5-301: PURPOSE: The high value of precious or semi-precious metal and stone articles has resulted in an increase in the theft of such articles. The City hereby finds and determines that law enforcement officers are hindered in the identification and recovery of stolen precious or semi-precious metal and stone articles because of the ease with which such articles are transferred to and disposed of by third parties. The City further finds and determines that law enforcement officers are hindered in the discovery and identification of persons selling stolen precious or semi-precious metal and stone articles because of the absence of any record-keeping system by persons purchasing the articles. Furthermore, the requirement of a retention period by persons engaged in the purchase of precious or semi-precious metal and stone articles is necessary to assist the Police Department in the recovery of such articles on behalf of the rightful owner. Accordingly, in the interest of safeguarding the public health, safety and welfare, it is the intent of the City, by enacting this Part to aid law enforcement officers in the discovery and identification of sellers of stolen precious or semi-precious metal and stone articles by requiring a license of businesses engaged in the buying of precious or semi-precious metal or stone articles, by providing a mandatory record-keeping and reporting system by businesses and by providing a retention period during which such articles may not be altered or disposed of. (Ord. 81-137)

8-5-302: DEFINITIONS:

ENGAGED IN or CONDUCTING BUSINESS means any business which holds itself out as engaging in the purchase, sale or barter of precious or semi-precious metal or stone articles, any business which engages in the purchase, sale or barter of five (5) or more precious or semi-precious metal or stone articles during any thirty (30) day period or any business which advertises for the purchase, sale or barter of precious or semi-precious metal or stone articles. "Engaged in or conducting business" does not mean the purchase, barter or sale of precious or semi-precious metal or stone articles from an estate or from a retail or wholesale merchant.

IDENTIFICATION NUMBERS means a group of numbers or letters affixed to or made a part of goods, articles or things by the manufacturer and commonly referred to as serial numbers and/or model numbers.

MINOR means any person under the age of eighteen (18) years.

PRECIOUS OR SEMI-PRECIOUS METALS OR STONES means any goods, articles or things containing precious metals including but not limited to gold, silver, platinum, palladium or pewter or containing stones including but not limited to alexandrite, diamonds, emeralds, garnets, opals and rubies, sapphires and topaz. For the purposes of this Part ivory, coral, pearls, jade and such other minerals, stones or gems as are customarily regarded as precious or semi-precious are deemed to be precious or semi-precious stones.

PRECIOUS OR SEMI-PRECIOUS METAL OR STONE ARTICLES means any tangible personal property consisting, in whole or in part, of precious or semi-precious metals or stones, whether solid plated or overlaid, including but not limited to household goods, jewelry, United States commemorative medals or tokens, gold and silver bullion, and foreign currency when purchased for more than its face value or foreign currency exchange value.

PRIVATE COLLECTOR means an individual, business or corporation who purchases an item for a price based on the value of the article as a historical item rather than the prevailing market price of the item's metallic or stone composition; who has an interest in preserving the item in its unique or historical form and who does not alter the form of the article; and whose primary purpose is to keep the article in a collection or to sell to another collector.

PURCHASE TRANSACTION means the buying of, bartering for or giving money to acquire any precious or semi-precious metal or stone article, taking any precious or semi-precious metal or stone article in full or partial satisfaction of a debt, or taking any precious or semi-precious metal or stone article for resale for the purpose of full or part satisfaction of a debt.

SELLER means any person offering any precious or semi-precious metal or stone article to any person engaged in or conducting business pursuant to this Part, offering any precious or semi-precious metal or stone article in full or part satisfaction of a debt, or offering any precious or semi-precious metal or stone article for resale for the purpose of full or part satisfaction of a debt. (Ord. 81-137)

8-5-303: LICENSE REQUIRED:

- A. Any business engaging in purchase transactions of precious or semi-precious metal or stone articles shall be required to obtain a business license. It shall be unlawful to fail to secure a license as required by this Part.
- B. The license fee for a business engaging in purchase transactions of precious or semi-precious metal or stone articles shall be as set forth in Section 8-1-508 of this Chapter and all licenses provided for herein shall expire on December 31 of each year.
- C. A business engaged in purchase transactions of precious or semi-precious metal or stone articles and otherwise licensed pursuant to Chapter 8, Parts 1 and 2 of Article 4 and Parts 1 and 2 of Article 5 shall be required to secure a license pursuant to this Part and to comply with all provisions of this Part but shall not be required to pay a license fee in accordance with subsection B of this Section. (Ord. 81-137)

8-5-304: RECORDS REQUIRED; IDENTIFICATION REQUIRED:

- A. Records Required: Each licensee pursuant to this Part or any principal, employee, agent or servant of such licensee shall maintain a register in a permanent, well-bound book, in which he shall record the following information: The name, address and date of birth of the seller and his driver's license number or other I.D. number from any other allowed form of identification pursuant to subsection C of this Section; the date, time and place of the purchase; an accurate and detailed account and description of each precious or semi-precious metal or stone article being purchased, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying marks on such articles and a description by weight and design of such articles. Licensee shall also obtain a written declaration of the seller's ownership which shall state whether the valuable article is totally owned by the seller, how long the seller has owned the article, whether the seller or someone else found the article, and, if the article was found, the details of its finding. The seller shall sign his name in such register and on the declaration of ownership. Such register shall be made available to any peace officer for inspection at any reasonable time. Licensee shall keep each register for at least three (3) years after the last date of purchase of valuable articles described therein.
- B. Each licensee pursuant to this Part or any principal, employee, agent or servant of such licensee shall provide the Colorado Springs Police Department with two (2) copies of a record containing the information required to be recorded in subsection A of this Section and one copy of the seller's declaration of ownership. Such records shall be on a form provided by the Colorado Springs Police Department and shall be delivered to the Police Department on the Monday following the date of the purchase transaction.
- C. Identification Required: No licensee pursuant to this Part or any principal, employee, agent or servant of such licensee shall engage in a purchase transaction with any seller without

- C) securing adequate identification from that person. The type and kind of identification shall be limited to the following:

1. Colorado driver's license;
2. Identification card issued in accordance with section 42-2-402, C.R.S. 1972, as amended;
3. A valid driver's license containing a picture issued by another state;
4. Identification card containing a picture issued by another state;
5. Military identification card;
6. Valid passport;
7. Alien registration card; or
8. A nonpicture identification document issued by a State or Federal government entity if the purchaser also obtains a clear imprint of the seller's right index finger. (Ord. 81-137)

8-5-305: RETENTION REQUIREMENT:

- A. Each licensee pursuant to this Part or any principal, employee, agent or servant of such licensee shall retain any precious or semi-precious metal or stone article for a period of thirty (30) days from the date of the purchase transaction. During such retention period, the precious or semi-precious metal or stone article shall not be changed in form, appearance, shape or content or altered in any way.
- B. The retention period required by this Part shall not apply to stamped and assayed gold and silver bullion and gold coins. In lieu of such retention period, each licensee pursuant to this Part or any principal, employee, agent or servant of such licensee shall be required to record the identity of any person to whom he sells or transfers any such bullion or coins and the date, time and place of such transfer. (Ord. 81-137)

8-5-306: INSPECTION; SEIZURE:

- A. Inspection: A "peace officer"¹ acting within the course and scope of his employment, shall

- A) have the authority to inspect without warrant and during normal business hours, all records required to be maintained by this Part.

A peace officer acting within the course and scope of his employment, shall have the authority to inspect without warrant and during normal business hours, precious or semi-precious metal or stone articles the subject of a purchase transaction. If such articles are not located on those portions of licensee's business premises open to the public, licensee shall promptly produce for inspection such articles upon demand by a law enforcement officer.

A peace officer acting within the course and scope of his employment, shall have the authority to inspect without warrant and during normal business hours, those portions of licensee's business premises open to the public.

- B. Seizure: During normal business hours, and from those portions of licensee's business premises open to the public, a peace officer acting within the course and scope of his employment may seize, without warrant, any precious or semi-precious metal or stone article the subject of a purchase transaction if the officer has probable cause to believe that such are stolen property. (Ord. 81-137)

8-5-307: PROHIBITED ACTS: No licensee pursuant to this Part or any principal, employee, agent or servant of such employee shall engage in a purchase transaction with a minor or with any person under the influence of alcoholic beverages or drugs. (Ord. 81-137)

8-5-308: EXCEPTIONS: The provisions of this Part shall not apply to:

- A. Private collectors purchasing collectors' items from other private collectors or businesses engaged in selling precious and semi-precious metal or stone articles exclusively as collectors' items, and who pay for such purchases by check;
- B. Precious and semi-precious metal or stone articles purchased exclusively in interstate commerce and paid for by check mailed to the

¹ Peace officer as defined by C.R.S. 1973 § 18-1-901(3)(1), as amended.

- B) seller in another state, if a record of the check by which payment was made and the name and address of the seller is maintained for a period of three (3) years; or
- C. A retail merchant who, in a retail transaction involving the sale of precious or semi-precious metal or stone articles receives another such article as a trade-in and credits the retail purchaser with the value thereof, provided that the retail purchaser provides proof satisfactory, to the retailer that such article was originally purchased from that retailer. (Ord. 81-137)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 6 GOING OUT OF BUSINESS SALES

PART 1 LICENSE REGULATIONS

SECTION:

- 8-6-101: License Required; Fees
- 8-6-102: License Period, Extension
- 8-6-103: Regulations for Conduct of Sale
- 8-6-104: License Designation and Number
- 8-6-105: Inventory Requirements
- 8-6-106: Location of Sale
- 8-6-107: Advertising and Selling Regulations
- 8-6-108: Records Required
- 8-6-109: Ordering Goods to be Sold Prohibited
- 8-6-110: Information Made Available to Licensing Officer
- 8-6-111: Exceptions
- 8-6-112: Business to Cease on Expiration of License

8-6-101: LICENSE REQUIRED; FEES: It shall be unlawful for any person to advertise, conduct or carry on in the City any sale of goods, wares or merchandise at retail that is represented as: going out of business; closing out; quitting business; liquidation; closing out all stock; lost lease; forced out of business; bankrupt, or similar sale without first having filed with the Licensing Officer an inventory under oath of all goods offered for sale, as hereinafter required, and having obtained from the Licensing Officer the proper license.

The license fees for a going out of business sale shall be as set out in Section 8-1-508 of this Chapter. (Ord. 75-164; 1968 Code § 5-71A,C)

8-6-102: LICENSE PERIOD, EXTENSION: Upon good cause, the Licensing Officer may extend the license for a reasonable time if such extension is required to complete the going out of business sale. The fee for such extension shall be fifty dollars (\$50.00) for a thirty (30) day period or portion thereof. An extension shall not be granted if it would extend a going out of business sale for more

than ninety (90) days. (Ord. 75-164; 1968 Code § 5-71D)

8-6-103: REGULATIONS FOR CONDUCT OF SALE: The Licensing Officer is authorized to promulgate regulations consistent with the provisions of this Article. (Ord. 75-164; 1968 Code § 5-71E)

8-6-104: LICENSE DESIGNATION AND NUMBER: A going out of business license when issued shall bear a number, and the licensee shall include his license designation and number in all advertising for sale of goods or of stocks of merchandise. (Ord. 75-164; 1968 Code § 5-71F)

8-6-105: INVENTORY REQUIREMENTS: The inventory required by Section 8-6-101 of this Chapter shall contain a complete and accurate list of all stock of goods, wares and merchandise to be sold at any sale for which a license is hereby required, together with the retail price thereof. No goods, wares or merchandise shall be included in the inventory which are not actually in the warehouse or the place of business of the applicant or in transit to the applicant upon a valid purchase order of the applicant at the time the application is filed. (Ord. 75-164; 1968 Code § 5-71G)

8-6-106: LOCATION OF SALE: All sales covered by the provisions of this Article shall be conducted in the place of business described in the application. (Ord. 75-164; 1968 Code § 5-71H)

8-6-107: ADVERTISING AND SELLING REGULATIONS: It shall be unlawful to advertise, sell or expose for sale at any going out of business sale, or to list on the inventory required by

this Article, any goods, wares or merchandise which are not of the regular stock of the store or in warehouse or in transit to the business which is to be closed out at such sale or to make any replenishments or additions to such stock for the purpose of such sale or during the time thereof. No goods, wares or merchandise shall be sold other than those actually included in the inventory. (Ord. 75-164; 1968 Code § 5-71I)

8-6-108: RECORDS REQUIRED: It shall be unlawful for any person licensed under this Article to fail, neglect or refuse to keep accurate records of the goods, wares or merchandise sold at any going out of business sale from which records the Licensing Officer may ascertain the kind and quality or number sold. A complete list of articles sold shall be filed with the Licensing Officer at the close of the sale. The Licensing Officer may, at his discretion, verify the details of the inventory or may check or verify items of merchandise sold during the sale. (Ord. 75-164; 1968 Code § 5-71J)

8-6-109: ORDERING GOODS TO BE SOLD PROHIBITED: It shall be unlawful for any person in contemplation of conducting any going out of business sale to order any goods for the purpose of selling and disposing of the same at such sale. Any unusual purchase in addition to the stock of goods within sixty (60) days prior to the filing of an application for a license hereunder shall be presumptive evidence that such purchases and additions were made in contemplation of such sale and for the purpose of selling such goods, wares and merchandise so purchased at such sale. (Ord. 75-164; 1968 Code § 5-71K)

8-6-110: INFORMATION MADE AVAILABLE TO LICENSING OFFICER: It shall be unlawful for any person receiving a license under the provisions of this Article to give false information to the Licensing Officer or to fail or refuse to give to the Licensing Officer or any person designated by him for that purpose, all material facts connected with the stock of goods, wares and merchandise on hand or the proper information regarding goods sold or any other information that he may require in order to make a thorough investigation of all phases connected with the sale. (Ord. 75-164; 1968 Code § 5-71L)

8-6-111: EXCEPTIONS: The provisions of this Article shall not be applicable to trustees in bankruptcy, executors, administrators, personal representatives of decedents' estates, receivers or other public officers acting under judicial process or authority of the law. Nor shall such provisions be applicable to persons in the business of liquidating or selling in the usual course of their business, bankrupt, jobbers', damaged or like stock. Nor shall such provisions be applicable to discontinued lines of merchandise nor the closeout of a department. (Ord. 75-164; 1968 Code § 5-71M)

8-6-112: BUSINESS TO CEASE ON EXPIRATION OF LICENSE: Upon the completion of a going out of business sale or the expiration of the license for such sale, the business which was conducted by the licensee shall cease and terminate and the City sales tax and use tax license issued to the licensee for said business shall also be terminated and withdrawn. A continuing operation of the same kind of business at the licensed premises shall be prima facie evidence that said business is still under the ownership or control of the licensee and is operated in violation of the provisions of this Article. (Ord. 75-164; 1968 Code § 5-71N)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 7 TAXICABS

PART 1 REGULATIONS IN GENERAL

SECTION:

- 8-7-101: Definitions
- 8-7-102: Display of Taxicab Identification for Passengers
- 8-7-103: Possession of Alcoholic Beverages by Drivers Prohibited
- 8-7-104: Maximum Hours of Work
- 8-7-105: Unlawful to Transport Nonpaying Customers
- 8-7-106: Solicitation, Acceptance and Discharge of Passengers
- 8-7-107: Trip Sheets
- 8-7-108: Charges to Passengers
- 8-7-109: Rules and Regulations

8-7-101: **DEFINITIONS:** The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

- A. **DRIVER:** Any person who drives a taxicab, including, but not limited to, an operator, an employee of an operator, or any person who, through lease or otherwise, stands in the relationship of independent contractor to an operator.
- B. **OPERATOR:** Any person engaged in the business of transporting persons for hire by means of one or more taxicabs; provided however that such term shall not include a person who operates a taxicab solely as a bona-fide employee of an operator, as that term is defined herein.
- C. **TAXICAB:** Any motor vehicle used to transport persons for hire and which has a seating capacity of not more than five (5) persons, not including the driver. (Ord. 83-305)

8-7-102: **DISPLAY OF TAXICAB IDENTIFICATION FOR PASSENGERS:**

It shall be the duty of every operator and driver of any taxicab operating in and on the streets of this City to have posted on each taxicab, in a conspicuous place clearly visible at all times to passengers, a sign stating the proper name of the operator of the taxicab and, in numerals at least three inches (3'') high, the permanent fleet number, if any, of the taxicab. (Ord. 83-305)

8-7-103: **POSSESSION OF ALCOHOLIC BEVERAGES BY DRIVERS PROHIBITED:**

It shall be unlawful for any driver, while on duty or in any manner in possession of a taxicab, to possess, either on his person or anywhere in his taxicab, any malt, vinous or spirituous liquor or any 3.2% beer at any time whatsoever. (Ord. 83-305)

8-7-104: **MAXIMUM HOURS OF WORK:**

- A. No driver shall work for more than a maximum of ten (10) driving hours in the aggregate in any twenty four (24) hour period, and such driver shall not again begin to drive until he has had at least eight (8) consecutive hours of rest.
- B. It shall be unlawful for any operator to knowingly allow any driver in possession of a taxicab owned or operated by such operator to violate this Section.
- C. For the purposes of this Section, "driving hours" shall consist of all time driving which a driver is "on duty" and available to pick up and transport passengers, whether or not such passengers are actually being transported. (Ord. 83-305)

8-7-105: **UNLAWFUL TO TRANSPORT NONPAYING CUSTOMERS:**

It shall be unlawful for any driver to transport or offer to transport in any taxicab any person other than a paying passenger, except law enforcement officials in the course of their duties, officers or employees of the operator of the taxicab going to and from work, bona-fide trainees, or supervisory personnel of the operator while in the course of their duties. (Ord. 83-305)

8-7-106: SOLICITATION, ACCEPTANCE AND DISCHARGE OF PASSENGERS:

- A. It shall be unlawful for the driver of any taxicab to divert or attempt to divert patronage from any hotel, motel, restaurant, nightclub, or other such establishment to another for consideration in any form.
- B. It shall be unlawful for a driver to engage in selling intoxicating liquors of any kind while driving or while in any manner in possession of a taxicab, or to solicit business for any unlawful purpose whatsoever.
- C. It shall be unlawful for any driver to invite business or customers, or attract or attempt to attract the attention of members of the public by word of mouth, signals, nods, or other signs from the taxicab while the taxicab is parked at a taxicab stand, or by going up to the curb for that purpose, or while cruising.
- D. It shall be unlawful for any driver of any taxicab to engage in the multiple loading of passengers; provided, however, that such loading may take place at bus stations upon arrival of buses, at airfields upon arrival of planes, where transportation is to be to or from sporting events, conventions or other similar events where there is a mass assemblage of passengers seeking transportation, during storms and in extreme emergencies, or from specially designated home stands, on the condition that passengers already in the taxicab at such locations offer no objection. (Ord. 83-305)

8-7-107: TRIP-SHEETS:

- A. It shall be the duty of every operator of any taxicab to furnish regularly to the driver thereof an adequate number of printed trip-sheets which shall contain the name of the driver of the taxicab, and either specifically or by a code number reference, the driver's address and license number, the license number of the taxicab, and the date. Such sheets shall contain blank spaces which shall be filled in by the driver showing the time and place at which any passenger engaged the taxicab, the number of such passengers, the time and place at which such passengers were delivered to their destination and the amount of the fare received by the driver. It shall be the duty of the driver

- A) to have stamped on each trip-sheet with an automatic time clock mechanism kept at the garage of the operator for that purpose, the time the driver takes the taxicab from the garage and the time at which the taxicab is returned to the garage.
- B. The trip-sheets when completed at the end of a shift, shall be returned to the operator, who shall file them consecutively by date and retain them as permanent records for a period of not less than two (2) years.
- C. Such trip-sheets may be examined by the Licensing Officer or the chief of police or any person designated by either of them at any time upon request. (Ord. 83-305)

8-7-108: CHARGES TO PASSENGERS: It shall be unlawful for any driver of any taxicab to demand or collect a different charge for taxicab service than that established from time to time by the authorized ratemaking body, or to accept anything of value other than money as a charge for taxicab service, whether as payment or security pledge or otherwise. (Ord. 83-305)

8-7-109: RULES AND REGULATIONS:

- A. The Licensing Officer may exercise the authority granted under Section 8-1-203 of this Code to adopt and publish such reasonable rules and regulations, not inconsistent with the provisions of this Article or of general law, as the Licensing Officer shall deem necessary, advisable or expedient to carry out or enforce the provisions hereof.
- B. Copies of such rules and regulations shall, when adopted, be available for distribution at the Licensing Officer's office.
- C. It shall be the duty of every operator and every driver licensed under the provisions of this Article to observe all such rules and regulations.
- D. Any violation of any such rule or regulation duly adopted by the Licensing Officer shall be deemed a violation of this Article and shall be punishable as such. (Ord. 83-305)

CHAPTER 8 BUSINESS AND LICENSE REGULATIONS

ARTICLE 7 TAXICABS

PART 2 TAXICAB DRIVER'S LICENSE

SECTION:

- 8-7-201: License Required, Fee
- 8-7-202: Qualifications of Applicants
- 8-7-203: Contents of Applications
- 8-7-204: Examination and Investigation of Applicants
- 8-7-205: Effect of Previous Criminal Record
- 8-7-206: Issuance; License to be Carried and Displayed
- 8-7-207: Identification Card
- 8-7-208: Defacement Prohibited
- 8-7-209: Expiration and Renewal
- 8-7-210: Revocation and Suspension
- 8-7-211: Effective Date

8-7-201: **LICENSE REQUIRED, FEE:** It shall be unlawful for any person to drive, or for any person to knowingly permit another person to drive, a taxicab on the streets of the City for business purposes unless such driver has in effect a license properly issued by the Licensing Officer as provided in this Article. The fee for such license shall be as set out in Section 8-1-508 of this Chapter. (Ord. 83-305)

8-7-202: **QUALIFICATIONS OF APPLICANTS:** In addition to those general qualifications set forth in Section 8-1-401 of this Chapter, all applicants for a license issued under this Article must meet the following specific qualifications:

- A. Age. All applicants must be of the age of eighteen (18) years or older.
- B. Chauffeur's License. Each applicant must possess a valid Colorado chauffeur's license.
- C. Physical Condition. Each applicant must establish, by means of a report of a physical examination conducted by a person licensed to practice medicine by the State of Colorado, that he is of sound physique, with good eyesight and

- C) not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render the applicant unfit for the safe operation of a taxicab; provided, however, that a report of physical examination submitted with an initial application shall remain valid during the initial licensing period and two (2) subsequent renewal periods thereafter, and no further examination need be submitted unless the Licensing Officer shall direct otherwise.
- D. Literacy. Each applicant must be able to speak, read and write in the English language.
- E. Appearance. Each applicant must be clean in dress and person and not addicted to the use of intoxicating liquors or drugs. (Ord. 83-305)

8-7-203: **CONTENTS OF APPLICATIONS:** In addition to those matters generally required by Section 8-1-403 of this Chapter, all applications for a license to be issued pursuant to this Article shall contain the following:

- A. Affidavits of good character from two (2) reputable persons who have known the applicant personally during the two (2) years next preceding the date of the application, and a further testimonial from the applicant's last employer unless, in the estimation of the Licensing Officer, sufficient reason is given for its omission. Both this statement and the affidavits of good character shall be submitted on forms to be provided by the Licensing Officer.
- B. Information as to the following matters:
 - 1. Full name, as well as any aliases;
 - 2. Present residence and all previous residences for a period of eight (8) years prior to moving to the present residence;
 - 3. Age, date and place of birth;
 - 4. Race;

- B) 5. Height and weight;
6. Color of eyes and hair;
7. Length of time the applicant has resided in the City;
8. Places of previous employment;
9. Whether the applicant has ever been arrested for, charged with or convicted of a crime, to include traffic offenses, and the circumstances thereof;
10. Whether the applicant has previously been licensed as a taxicab driver or chauffeur, either in this State or elsewhere, and, if so, whether such license was ever revoked or suspended and for what cause.
11. A copy of the applicant's driving record as maintained by the Colorado Department of Revenue plus, if the applicant has not been licensed to drive a motor vehicle by the State of Colorado during the full three (3) year period prior to the date of application for licensing under this Article, copies of records maintained by the State or States in which the applicant was licensed during such period.
- C. Three (3) photographs of the applicant, each showing the applicant's full face, and which were taken within three (3) months of the date of the application. One such photograph shall be attached to the license when and if issued, one shall be attached to the identification card to be issued under this Part, and the third to be filed with the application by the Licensing Officer. (Ord. 83-305)

8-7-204: EXAMINATION AND INVESTIGATION OF APPLICANTS:

- A. Every applicant for a driver's license shall be examined by the Licensing Officer as to, knowledge of the provisions of this Code regarding the operation of taxicabs and other motor vehicles, and general knowledge of the streets and public places and institutions of the City. The Licensing Officer may request assistance from any appropriate City Department in conducting such examination.

- B. The Licensing Officer may make such further investigation of each applicant as in his judgment may be necessary and appropriate to determine the record of such applicant for law abiding behavior, attendance to duties, competence as a driver and trustworthiness. In making such investigation, the Licensing Officer may request assistance from any City Department deemed appropriate.
- C. Pending such examination or investigation, the Licensing officer may, in his discretion, issue a temporary taxicab driver's license. Such license shall be valid for a period not to exceed thirty (30) days. (Ord. 83-305)

8-7-205: EFFECT OF PREVIOUS CRIMINAL RECORD:

- A. No taxicab driver's license shall be issued to any applicant who, either as an adult or as a juvenile, has been convicted or adjudicated as guilty of a felony or has been an inmate of any correctional institution or penitentiary as a result of being convicted or adjudicated as guilty of a felony within five (5) years of the date of the application for a license under this Part; provided, however, that if the applicant shall have received a pardon or been placed on probation the Licensing Officer may, in the exercise of his discretion, issue the license if all other provisions of this Chapter are fully complied with.
- B. Where such conviction/adjudication or incarceration occurred prior to five (5) years preceding the date of application, a license may be issued if in the judgment of the Licensing Officer the applicant has conducted himself since his release as a law abiding person who may be safely entrusted with the responsibility of transporting members of the public in a taxicab.
- C. The Licensing Officer may refuse to issue a license to any applicant whose police record shows convictions or adjudications of guilt of misdemeanor or petty offenses, other than traffic offenses, involving alcohol or drug abuse or misuse or which otherwise indicate that the applicant should not be entrusted with the responsibility of transporting members of the public in a taxicab.

- D. The Licensing Officer may refuse to issue a license to any applicant whose traffic record shows convictions for repeated moving traffic violations occurring during the three (3) years immediately prior to the date of application for the license required by this Part. For the purposes of this Section, the term "moving traffic violation" shall include any traffic offense, whether committed within the State of Colorado or elsewhere, for which penalty points could have been assessed against the applicant's driving privilege by the Colorado Department of Revenue had the offense been committed in Colorado. "Repeated" shall mean conviction of an adjudication of guilty of four (4) or more moving traffic violations during the three (3) year period prior to the date of application, conviction or adjudication of guilt of any one or more moving traffic violations which, either alone or together, would have been sufficient to warrant the suspension of the applicant's driving privilege in the State of Colorado, or conviction or adjudication of guilty of any offense involving the operation of a motor vehicle while under the influence of or while the applicant's ability was impaired by either alcohol, drugs or any other intoxicant. (83-305)

8-7-206: ISSUANCE; LICENSE TO BE CARRIED AND DISPLAYED:

- A. Upon compliance with the requirements of this Chapter, there shall be issued to the applicant a license which the applicant shall carry at all times during which he is driving or otherwise in possession of a taxicab.
- B. It shall be the duty of each and every person to whom a license has been issued under this Part to exhibit the same upon the request of any peace officer, the Licensing Officer, any other City official in the course of his duties, or any passenger of the licensee. (Ord. 83-305)

8-7-207: IDENTIFICATION CARD: In addition to the license provided for in this Part, the licensee shall be furnished with an identification card, the content and form of which shall include a photograph of the licensee, but which shall otherwise be determined by the Licensing Officer. Such identification card must be continuously displayed within the taxicab driven by the licensee so as to be

easily visible to the passengers thereof. In the event of defacement or removal of the card, the licensee shall make prompt application to the Licensing Officer for a replacement. (Ord. 83-305)

8-7-208: DEFACEMENT PROHIBITED: It shall be unlawful for any licensee to deface, remove or obliterate any official entry, including any photograph, made on the license or identification card issued pursuant to this Part. (Ord. 83-305)

8-7-209: EXPIRATION AND RENEWAL:

- A. All licenses issued under this Part shall expire on the last day of the month of February next following the issuance thereof.
- B. Unless suspended or revoked, a license may be renewed in accordance with Section 8-1-607 of this Chapter and this Part. Such renewal shall be for a period of twelve (12) months and shall expire as provided in subsection A above.
- C. The Licensing Officer may, in his discretion, conduct an examination or investigation of an applicant for license renewal, as authorized in Section 8-7-204 of this Part, prior to issuing a renewal hereunder. (Ord. 83-305)

8-7-210: REVOCATION AND SUSPENSION:

- A. In addition to those grounds set forth in Section 8-1-801 of this Chapter, the following shall be grounds for suspension or revocation of a license issued under this Part.
1. Conviction of the offense of reckless driving or driving under the influence of or while ability is impaired by alcohol, drugs or other intoxicants, regardless of whether or not the driver was on duty at the time of the commission of the offense.
 2. Conviction of repeated moving traffic violations. For the purpose of this Section, the term "moving traffic violations" shall be as defined in Section 8-7-205 of this Part. The term "repeated" shall mean conviction of three (3) or more moving traffic violations during the period for which the license was issued.

- B. Any suspension or revocation shall be noted on the driver's record, together with a statement of the reasons therefor, and the driver shall be deprived of the identification card and license issued by the Licensing Officer pursuant to this Part. In cases of suspension the card and license shall be returned to the licensee at the expiration of the period of suspension.
- C. No driver whose license has been revoked shall again be licensed as a taxicab driver in the City except upon a new application made to the Licensing Officer in accordance with this Part. The Licensing Officer shall hold a hearing at which the applicant shall have the burden of establishing to the satisfaction of the Licensing Officer that another license should be issued to the applicant. No application shall be considered by the Licensing Officer prior to twelve (12) months following the date of revocation. (Ord. 83-305)

8-7-211: **EFFECTIVE DATE:** The requirement for a license for taxicab drivers imposed by this Part shall be effective on and after March 1, 1984. (Ord. 83-305)

CHAPTER 9
ALCOHOLIC LIQUORS

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CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 1 LICENSES

PART 1 GENERAL PROVISIONS

SECTION:

- 9-1-101: Title
- 9-1-102: Definitions
- 9-1-103: Local Licensing Authority

9-1-101: **TITLE:** This Chapter shall be known and may be cited as the Liquor Code of the City (hereinafter this Chapter). (1980 Code)

9-1-102: **DEFINITIONS:**¹The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

ALCOHOLIC LIQUOR: Malt, vinous or spirituous liquors.

DELIVERY: The delivery of an alcoholic liquor or three and two-tenths percent (3.2%) beer off the premises of the person selling the same; provided, however, this term shall not include wholesale deliveries or deliveries made to persons holding a license for the sale, service or distribution of alcoholic liquors or three and two-tenths percent (3.2%) beer under the terms of this Chapter.

MALT LIQUOR: Includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

OPERATOR: A person licensed by law to sell malt, vinous and spirituous liquors or three and two-tenths percent (3.2%) beer for beverage purposes at retail and who is engaged at any time during the calendar year in such operation within the City.

SPIRITUOUS LIQUORS: Any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as above provided shall not be construed to be malt or vinous liquor but shall be construed to be spirituous liquor.

3.2% BEER: A fermented malt alcoholic beverage containing not more than three and two-tenths percent (3.2%) alcohol by weight.

VINOUS LIQUORS: Includes wine and fortified wines not exceeding twenty one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 1882; Ord. 2340; Ord. 81-130; 1968 Code § 5-74B)

9-1-103: **LOCAL LICENSING AUTHORITY:**

- A. City Council. The City Council, except as otherwise provided in this Chapter 9, shall be the local licensing authority of the City for the licensing of the sale of three and two-tenths percent (3.2%) beer and alcoholic liquors as authorized by C.R.S. 1973, Title 12, Articles 46, 47 and 48 and the rules and regulations of the State Licensing Authority, and shall possess all powers given to local licensing authorities by the provisions of said Statute and rules and regulations. (Ord. 76-34; Ord. 81-130; Ord. 83-75; 1968 Code § 5-76)
- B. Special Event Permit. The City Clerk shall be the local Liquor Licensing Authority for the purpose of reviewing and granting or denying applications for special event liquor permits. The City Clerk, as the local Liquor Licensing Authority, shall be governed by the requirements of the applicable State statute and any appropriate City Council resolution. (Ord. 75-137; 1968 Code § 5-74A)

¹. For definitions of general application, see Section 1-1-203 of this Code.

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 1 LICENSES

PART 2 LICENSES REQUIRED

SECTION:

- 9-1-201: City License Required
- 9-1-202: Compliance With State Licenses,
Fees Required
- 9-1-203: Application for License

filed with the City Clerk on forms to be approved by said City Clerk, together with such other information and documents as may be required by the rules of the Liquor and Beer Licensing Advisory Board.² The City Clerk, or any deputy assigned by him, shall act as secretary to the Liquor and Beer Licensing Advisory Board and all records thereof shall be kept in the City Clerk's office. (Ord. 76-34; 1968 Code § 5-84)

9-1-201: **CITY LICENSE REQUIRED:** It shall be unlawful for any person to engage in the business of selling or serving any alcoholic liquors or three and two-tenths percent (3.2%) beer within the City without having first procured a license therefor from the City. (Ord. 1588; Ord. 81-130; 1968 Code § 5-74A)

9-1-202: COMPLIANCE WITH STATE LICENSES, FEES REQUIRED:

A. The license heretofore required in Section 9-1-201 shall be issued in accordance with and upon the payment of the fees provided in the following State Statute provisions:

1. For a general license, as provided in C.R.S.1973 Title 12, Article 47;
2. For the sale of three and two tenths percent (3.2%) beer only, as provided in C.R.S. 1973 Title 12, Article 46; and
3. For a special permit, as provided in C.R.S. 1973 Title 12, Article 48.

B. Such fees shall not be deemed to include necessary costs of giving public notice, conducting an investigation, conducting a public hearing and otherwise processing an application for license, which costs shall be borne by the applicant.¹ (Ord. 1588; 1968 Code § 5-74A)

9-1-203: **APPLICATION FOR LICENSE:** All applications for licenses and fees shall be

1. See Resolution 209-76, establishing a fee of \$350.00 to defray such expenses.

2. See Article 2 of this Chapter.

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 1 LICENSES

PART 3 OCCUPATION TAX ON LIQUORS

SECTION:

- 9-1-301: Declaration of Policy and Purpose
 9-1-302: Classification and Occupation Tax Established
 9-1-303: Payment of Tax; Proration
 9-1-304: Payment of Tax Prerequisite to Sale
 9-1-305: Delinquent Taxes

9-1-301: **DECLARATION OF POLICY AND PURPOSE:**

The City Council hereby finds, determines and declares that, considering the nature of the business of selling at retail three and two tenths percent (3.2%) beer, malt, vinous and spirituous liquors for beverage purpose, the relation of such business to the general welfare, as well as the relation thereof to the expenditures required of the City, the proper, just and equitable distribution of the tax burdens within the City and all other penalties proper to be considered in relation thereto, the classification of said business as a separate occupation is reasonable, proper, uniform and nondiscriminatory, and that the amount of tax imposed herein is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of the tax burdens within the City. (Ord. 1882; 1968 Code § 5-75A)

9-1-302: **CLASSIFICATION AND OCCUPATION TAX ESTABLISHED:**

The business of selling at retail any three and two-tenths percent (3.2%) beer, malt, vinous or spirituous liquor for beverage purposes is hereby defined and separately classified, and the license tax fixed for such occupation for the purposes of this Chapter as follows:

- A. Class "A" Operators. All operators who are licensed to sell malt, wine and spirituous liquors for consumption on the premises used as a hotel, restaurant, or tavern. The annual occupation tax is hereby set at four hundred dollars (\$400.00). (Ord. 1882; Ord. 2408; Ord. 76-106; Ord. 81-243; Ord. 82-230; 1968 Code § 5-75C)
- B. Class "B" Operators. All operators licensed to sell malt or vinous liquors only by the drink for consumption on the premises. The annual occupation tax is hereby set at three hundred dollars (\$300.00).
- C. Class "C" Operators. All operators licensed as retail liquor stores to sell malt, vinous or spirituous liquors in original containers for consumption off the premises. The annual occupation tax is hereby set at three hundred dollars (\$300.00).
- D. Class "D" Operators. All operators licensed as drugstores to sell malt, vinous or spirituous liquors in original containers for consumption off the premises. The annual occupation tax is hereby set at three hundred dollars (\$300.00). (Ord. 1882; Ord. 2408; Ord. 81-243; Ord. 82-230; 1968 Code § 5-75B, C)
- E. Class "E" Operators. All operators licensed to sell malt, vinous or spirituous liquors as clubs. The annual occupation tax is hereby set at three hundred dollars (\$300.00). (Ord. 1882; Ord. 2408; Ord. 76-106; Ord. 81-243; Ord. 82-230; 1968 Code § 5-75C)
- F. Class "F" Operators. All operators licensed to sell only three and two-tenths percent (3.2%) beer either by the drink or for consumption on the premises or in the original containers for consumption off the premises. The annual occupation tax is hereby set at three hundred dollars (\$300.00). (Ord. 1882; Ord. 2408; Ord. 81-243; Ord. 82-230; 1968 Code § 5-75B, C)
- G. Class "G" Operators. All operators licensed to sell malt, vinous or spirituous liquors as arts license. The annual occupation tax is hereby set at two hundred dollars (\$200.00).
- H. Class "H" Operators. All operators who are licensed to sell malt, wine and spirituous liquors for consumption on the premises used as a racetrack. The annual occupation tax is hereby set at three hundred dollars (\$300.00). (Ord. 82-230)

9-1-303: PAYMENT OF TAX; PRORATION:

- A. Such occupation tax shall be due and payable to the City Treasurer on January 1 of each year and shall be delinquent on February 1 of the same year. Prepayment of said tax may be made in the month of December preceding the due date.
- B. Upon receipt of said tax, the City Treasurer shall issue a receipt showing the name of the person paying the same, the annual period for which the tax is paid, and the location of the place of business for which the same is paid. The person operating said business shall at all times during said year keep the said receipt posted in a conspicuous place on said premises.
- C. If such occupation is newly undertaken or commenced subsequent to January 1 of any year, the tax shall be prorated for the remaining portion of the year. However, if such business is actually in existence and only temporarily closed, no such proration or refund shall be made to any person who discontinues said business during the year. All prorated taxes herein provided for shall be due and payable upon the beginning of business, and shall be delinquent ten (10) days thereafter. (Ord. 1882; 1968 Code § 5-75D)

9-1-304: PAYMENT OF TAX PREREQUISITE

TO SALE: It shall be unlawful for any person to engage in the occupation of selling at retail for beverage purposes any three and two-tenths percent (3.2%) beer, malt vinous or spirituous liquors in the City until he shall have made payment in full of all taxes imposed by this Part 3. For each twenty four (24) hour period during which said business is conducted without such payment, a separate offense in violation of this Section shall be deemed to have been committed. (Ord. 1882; 1968 Code § 5-75G)

9-1-305: DELINQUENT TAXES:

- A. Interest. Interest shall accrue on all delinquent taxes from the date of delinquency until paid or collected at the rate of one percent (1%) per month.

- B. Delinquent Tax Not Grounds for Suspension of License. No delinquency in payment of the tax herein provided for shall be grounds for suspension or revocation of any license granted to any such operator by any licensing authority pursuant to State statutes and in performance of any duties imposed upon the City Council as a licensing authority by such statutes, the City Council shall exclude from consideration any delinquency in payment of the tax herein provided for.
- C. Recovery of Delinquent Tax. The City may recover all sums due under this Part 3 by an action at law. (Ord. 1882; 1968 Code § 5-75D, E, F)

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 2 LIQUOR AND BEER LICENSING ADVISORY BOARD

PART 1 CREATION, PROCEDURES OF BOARD

SECTION:

- 9-2-101: Board Created
- 9-2-102: Qualifications, Terms of Members
- 9-2-103: Quorum, Majority Vote
- 9-2-104: Rules and Regulations for Procedures

the power to recommend for City Council adoption rules and regulations which shall govern the conduct of investigations as are required by law, the conduct of hearings before it, and the procedures for ruling upon license applications, transfers, renewals, suspensions or revocations of licenses. Consistent with the authority delegated by C.R.S. 1973 Title 12, Article 46, the Board may recommend ordinances for City Council adoption with respect to the sale of fermented malt beverages. (Ord. 76-34; 1968 Code § 5-79)

9-2-101: **BOARD CREATED:** There is hereby created a Liquor and Beer Licensing Advisory Board. The Liquor and Beer Licensing Advisory Board shall consist of five (5) members to be appointed by the City Council. The Liquor and Beer Licensing Advisory Board shall act as the local licensing authority for the City and its recommendations shall be final agency action unless said recommendations are appealed to the Colorado Springs City Council in accordance with the provisions of this Chapter 9, in which case the City Council shall be the local licensing authority. (Ord. 76-34; Ord. 83-75; 1968 Code § 5-77)

9-2-102: **QUALIFICATIONS, TERMS OF MEMBERS:** The members of said Liquor and Beer Licensing Advisory Board shall be residents of the City. Appointments to the Board shall be made in such manner as to achieve staggered three (3) year terms. In the event a vacancy arises, the City Council shall make appointment for an unexpired term.

Any member of the Board may be removed by the City Council for nonattendance to duty or for cause. (Ord. 76-34; 1968 Code § 5-77)

9-2-103: **QUORUM, MAJORITY VOTE:** A majority of the Liquor and Beer Licensing Advisory Board shall constitute a quorum for the conduct of its business. All decisions of the Liquor and Beer Licensing Advisory Board shall be by a majority vote of the members present. (Ord. 76-34; Ord. 83-75; 1968 Code § 5-78)

9-2-104: **RULES AND REGULATIONS FOR PROCEDURES:** The Board shall have

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 2 LIQUOR AND BEER LICENSING ADVISORY BOARD

PART 2 ISSUANCE OF LICENSES

SECTION:

- 9-2-201: Hearing on Applications
- 9-2-202: Applications; Factors to Consider
- 9-2-203: Recommendations of the Board
- 9-2-204: Records
- 9-2-205: Decisions by Board; Appeal
- 9-2-206: Distance Restrictions for Hotel and Restaurant Licenses

9-2-201: HEARING ON APPLICATIONS:

- A. The Liquor and Beer Licensing Advisory Board shall have the power to hear and determine applications for new licenses, transfers, change of locations and modifications, alterations or expansion of the licensed premises. (Ord. 76-34; Ord. 77-186; Ord. 83-75; 1968 Code § 5-80A)
- B. All hearings of the Board shall be conducted pursuant to and in accordance with the provisions of C.R.S. 1973 Title 12, Articles 46, 47 and 48, or any rules and regulations issued thereunder, the provisions of this Chapter and the rules and regulations governing the conduct of this Board. (Ord. 77-186; 1968 Code § 5-80C)

9-2-202: APPLICATIONS; FACTORS TO CONSIDER:

- A. Before entering any decision approving or denying an application, the Liquor and Beer Licensing Board shall consider the following:
 - 1. The facts and evidence adduced as a result of its investigation, as well as any other facts;
 - 2. The reasonable requirements of the neighborhood for the type of license for which application has been made;
 - 3. The number, type and availability of liquor

- A3) outlets in or near the neighborhood under consideration; and

4. Any other pertinent facts affecting the qualifications of the applicant for the conduct of the type of business proposed.

- B. The reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license. (Ord. 76-34; 1968 Code § 5-80B)

9-2-203: RECOMMENDATIONS OF THE BOARD:

- A. The Liquor and Beer Licensing Advisory Board may recommend terms, conditions or provisions upon granting of a license as the Board may deem necessary to carry out the exercise of police powers, provided that these terms, conditions or provisions do not conflict with the laws of the State or rules and regulations provided by the State Liquor Licensing Authority or ordinances and resolutions of the City. (Ord. 76-34; 1968 Code § 5-80D)
- B. The recommendation of the Board, if not appealed to City Council within ten (10) days from the date of the recommendation, shall constitute final agency action of the local licensing authority for all purposes under the applicable State statutes and rules and regulations. The failure to appeal the recommendation of the Board within the ten (10) day period shall be deemed to be a waiver of the applicant's or protestant's, as the case may be, right to appeal to the courts under Rule 106 of the Colorado Rules of Civil Procedure. (Ord. 79-101; Ord. 83-75; 1968 Code § 5-80E)

9-2-204: RECORDS: A verbatim record of the Boards's proceedings shall be made by electronic recording device or other appropriate method. (Ord. 76-34; Ord. 83-75; 1968 Code § 5-80F)

9-2-205: DECISIONS BY BOARD; APPEAL:

- A. The applicant or any other party in interest, as defined in C.R.S. 1973 §§ 12-47-136 and 12-46-117, may appeal a recommendation of the Liquor and Beer Licensing Advisory Board with respect to an application for new licenses, transfers, change of locations or modifications, alterations or enlargement of the licensed premises, as provided in Sections 9-2-201 through 9-2-204 of this Chapter to the City Council, provided such party files with the City Clerk a written notice of appeal within ten (10) days after the date of the recommendation by the Board. The notice of appeal shall state the grounds of appeal and shall include an acknowledgment that the appellant is responsible for the costs of preparing the transcript of the proceedings before the Liquor and Beer Licensing Advisory Board. (Ord. 77-186; Ord. 83-75)
- B. In the event an appeal is filed and the estimated cost of the transcript is paid within the ten (10) day period, the recommendation of the Liquor and Beer Licensing Advisory Board shall be forwarded to the City Council along with the transcript of proceedings before the Board, and all other evidence submitted by the Board, and the appeal shall be heard at the next regular City Council meeting occurring at least ten (10) days after the certification of the record by the City Clerk/Treasurer. (Ord. 79-101; Ord. 83-75; 1988 Code)
- C. Upon appeal to the City Council of license applications, transfers, change of locations or alterations, modifications or enlargement of the licensed premises, the Council shall review the record, including the transcript of proceedings and evidence before the Board, and shall determine whether or not there is substantial evidence in the record to support the recommendation of the Board. If there is substantial evidence in the record to support the recommendation of the Board, then the Council shall affirm the decision of the Board. If there is not substantial evidence in the record to support the recommendation of the Board, then the Council may reverse the recommendation of the Board or remand the matter back to the Board for further proceedings. No new evidence shall be submitted to the Council unless a majority of the Council determines that such evidence could not have been reasonably presented at the time the matter was heard before the Board. If the Council decides to hear new evidence, it may hear the new evidence or remand the matter to the
- D. Board. A verbatim record of the proceedings shall be made by electronic recording device or other appropriate method. (Ord. 76-34; Ord. 77-186; Ord. 83-75)
- E. On such appeals, the City Council shall have all powers of the local Licensing Authority in conducting and deciding the issue. A majority vote of the City Council present at a duly constituted meeting shall be determinative of the appeal.
- F. 1. The appellant seeking review of the recommendation of the Liquor and Beer Licensing Advisory Board at the time of the filing of the notice of appeal shall pay to the City the estimated cost for preparing a transcript of the proceedings before the Board. The cost of preparing a transcript of proceedings before the Board shall be charged at rates ordinarily charged by certified court reporters. The cost of preparing the transcript shall be estimated by the City Clerk/Treasurer. In the event the cost of the transcript is greater than the cost estimated by the City Clerk/Treasurer, the appellant shall pay this additional cost within ten (10) days after billing by the City Clerk/Treasurer. In the event that the cost of the transcript is less than the estimated cost paid by the appellant, the City Clerk/Treasurer shall refund the excess paid within ten (10) days after actual cost of the transcript is determined.
2. Any party applying to the Council for review of the final decision of the City Council shall be required to pay the cost of preparing a transcript of proceedings before the City Council. (Ord. 76-34; Ord. 83-75; 1988 Code § 5-82)

9-2-206 DISTANCE RESTRICTIONS FOR HOTEL AND RESTAURANT LICENSES

The City is authorized to (a) not distance restriction as provided by section 12-47-136(d)(iv) of the Colorado Liquor Code for hotel and restaurant licenses only from schools, colleges, universities or seminaries as specified therein, as noted, eliminated. Notwithstanding the provisions hereof, the Board shall, in any case where a proposed hotel and restaurant license is located within the prescribed distance restrictions in section 12-47-136(d)(iv) C.R.S., make a specific finding as to the impact, if any, upon any school, college, university or seminary, as applicable, in the neighborhood, by the granting of the license. The Board shall deny the license if it finds an adverse impact upon a school, college, university or seminary, as applicable. If the Board finds no adverse impact, it shall then consider the other criteria required by law. (Ord. 86-118)

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 2 LIQUOR AND BEER LICENSING ADVISORY BOARD

PART 3 SUSPENSION OR REVOCATION OF LICENSES

SECTION:

- 9-2-301: Investigation, Hearing on Complaint
 9-2-302: Hearing Officer
 9-2-303: Hearing Procedures
 9-2-304: Review by City Council

- C) regulations. (Ord. 76-34; Ord. 77-186; Ord. 83-75; 1968 Code § 5-81A)

9-2-301: INVESTIGATION, HEARING ON COMPLAINT:

- A. The Liquor and Beer Licensing Advisory Board, except as provided below, on its own motion or upon the filing of a notice and order to show cause by the City, and after a hearing on the matter, shall have the power to recommend that the City Council suspend, revoke or deny renewal of any license issued by the City Council or the Board for any violation by the licensee, its agents, servants or employees. The power to summarily suspend a license exists only in the City Council.
- B. Such recommendation may be based on a violation of the provisions of C.R.S. 1973, Title 12, Articles 46, 47 and 48, or any of the rules and regulations issued thereunder, or of this Chapter, or any rules and regulations promulgated by the Liquor and Beer Licensing Advisory Board, or any of the terms, conditions or provisions issued by the City Council, or the Board, provided that an investigation and a public hearing be granted at which the licensee and any protestant shall be afforded an opportunity to be heard, present evidence, cross examine witnesses, and in the case of the licensee, offer evidence in mitigation of any violations.
- C. The recommendation of the Board, if not appealed to City Council within ten (10) days of the date of the Board's recommendation, shall constitute final agency action of the local licensing authority for all purposes under the applicable State statutes and rules and

- 9-2-302: **HEARING OFFICER:** The Board may recommend to City Council that a Hearing Officer be appointed, at the City's expense, to make a record and recommendations. (Ord. 76-34; Ord. 77-186; 1968 Code § 5-81A)

9-2-303: HEARING PROCEDURES:

- A. Notice of such hearing for suspension, revocation, or nonrenewal shall be given by mailing same in writing to the licensee at the address contained in such license, or by personal service upon the licensee at the address contained in such license. (Ord. 76-34; Ord. 83-75; 1968 Code § 5-81C)
- B. The Board or Hearing Officer shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which it is authorized to conduct. (Ord. 76-34; Ord. 77-186; 1968 Code § 5-81B)
- C. A verbatim record of the proceedings before the Board or Hearing Officer shall be made by electronic recording device or other appropriate method. (Ord. 77-186; 1968 Code § 5-81D)

9-2-304: REVIEW BY CITY COUNCIL:

- A. In the event an appeal is filed and the estimated cost of the transcript is paid within the ten (10) day period, the recommendation of the Liquor and Beer Licensing Advisory Board shall be forwarded to the City Council, along with the transcript of proceedings before the Board, and all other evidence admitted by the Board, and the appeal shall be heard at the next regular City Council meeting occurring at least ten (10) days

- A) after the certification of the record to the City Council by the City Clerk-Treasurer.
- B. Upon appeal to the City Council of the suspension, revocation or nonrenewal hearing, the Council shall review the record, including the transcript of proceedings and evidence before the Board, and shall determine whether or not there is substantial evidence in the record to support the recommendation of the Board. If there is substantial evidence in the record to support the recommendation of the Board, then the Council shall affirm the decision of the Board. If there is not substantial evidence in the record to support the recommendation of the Board, then the Council may reverse the recommendation of the Board or remand the matter back to the Board for further proceedings. No new evidence shall be submitted to the Council unless a majority of the Council determine that such evidence could not have been reasonably presented at the time the matter was heard before the Board. If the Council decides to hear new evidence, it may hear the new evidence or remand the matter to the Board.
- C.
 - 1. The appellant seeking review of the recommendation of the Liquor and Beer Licensing Advisory Board, at the time of the filing of the notice of appeal, shall pay to the City the estimated cost for preparing a transcript of the proceedings before the Board. The cost of preparing a transcript of testimony before the Board shall be charged at rates ordinarily charged by certified court reporters. The cost of preparing the transcript shall be estimated by the City Clerk-Treasurer. In the event the cost of the transcript is greater than the cost estimated by the City Clerk-Treasurer, the appellant shall pay this additional cost within ten (10) days after billing by the City Clerk-Treasurer. In the event that the cost of the transcript is less than the estimated sum paid by the appellant, the City Clerk-Treasurer shall refund the excess paid within ten (10) days after actual cost of the transcript is determined.
 - 2. Any person applying to the courts for review of the final decision of the City Council shall be required to pay the cost of preparing a transcript of proceedings before the City Council. (Ord. 77-186; Ord. 83-75; 1968 Code § 5-83)

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 3 OFFENSES

PART 1 GENERAL OFFENSES

SECTION:

- 9-3-101: Hours of Sale
- 9-3-102: Sales Off Premises Prohibited
- 9-3-103: Consumption Regulations
- 9-3-104: Drinking in Public Prohibited
- 9-3-105: Drinking in Vehicles Prohibited
- 9-3-106: Closed Booths Prohibited
- 9-3-107: Delivery of Alcoholic Liquors; Restrictions
- 9-3-108: 3.2% Beer Restrictions
- 9-3-109: Conduct in and of Establishments
- 9-3-110: Exceptions

- B) Mondays through
 Saturday 12:01 A.M. to 8:00 A.M.
 Sundays and
 Christmas Day All day
 Primary or general
 election days During polling hours
- C. It shall be unlawful to sell fermented malt beverages containing not more than three and two-tenths percent (3.2%) alcohol by weight during the following times:
 Every day 12:00 Midnight to 5:00 A.M.
 (Ord. 77-40; 1968 Code § 5-74C; 1980 Code)

9-3-101: HOURS OF SALE:

- A. It shall be unlawful for any person to sell, serve or distribute any alcoholic liquor by the drink for consumption on the premises during the following times:

Mondays	12:01 A.M. to 7:00 A.M.
Tuesdays through Saturdays	2:00 A.M. to 7:00 A.M.
Sundays and Christmas Day	2:00 A.M. to 8:00 A.M. 8:00 P.M. to 12:00 midnight
January 1, when same falls on a Monday	2:00 A.M. to 7:00 A.M.
Primary or general election days	During polling hours

Provided, however, that if a special license is issued pursuant to C.R.S. 1973 § 12-47-128(5)(c)II, that such licensee may sell, serve or distribute alcoholic liquor by the drink for consumption on the premises from the hour of eight o'clock (8:00) P.M. until twelve o'clock (12:00) Midnight on Sundays and Christmas.

- B. It shall be unlawful to sell, serve or distribute any alcoholic liquor in sealed containers during the following times:

9-3-102: SALES OFF PREMISES PROHIBITED:

No person shall sell, offer for sale or solicit any order for the sale at retail of any alcoholic liquor or three and two-tenths percent (3.2%) beer except within the licensed premises. Curb service or service to persons in an automobile is not prohibited unless such service interferes or impedes a public thoroughfare, street or alley. (Ord. 1588; Ord. 81-130; Ord. 82-89; 1968 Code § 5-74H)

9-3-103: CONSUMPTION REGULATIONS:

- A. It shall be unlawful for any person to consume any alcoholic liquor or three and two-tenths percent (3.2%) beer purchased by the drink except on premises licensed hereunder to sell liquor by the drink for consumption on said premises.
- B. It shall be unlawful for any person to consume any alcoholic liquor or three and two-tenths percent (3.2%) beer at any time on any licensed premises other than such alcoholic liquor or three and two-tenths percent (3.2%) beer as is purchased at such licensed premises.
- C. It shall be unlawful for any person to consume any alcoholic liquor or three and two-tenths percent (3.2%) beer in any public room on licensed premises during such hours as the sale of such liquor is by law prohibited. (Ord. 1588; Ord. 81-130; 1968 Code § 5-74I)

9-3-104: DRINKING IN PUBLIC PROHIBITED:

- A. It shall be unlawful to drink any alcoholic liquors or three and two-tenths percent (3.2%) beer upon any street, alley, avenue, park,¹ vacant lot or ground or upon any public stairway or hall, or in any other public place whatsoever except licensed establishments within the jurisdiction of the City.
- B. In any prosecution charging a violation of this Section, proof that the particular person described in the complaint was found upon any street, alley, avenue, park, vacant lot or ground, stairway, hall or any other public place whatsoever except licensed establishments within the jurisdiction of the City, in possession of any alcoholic liquor or three and two-tenths percent (3.2%) beer in a container which was not so closed or sealed so as to prevent a person from drinking from such container without first removing said closure or seal, together with proof that such container held less than the full amount of such alcoholic beverage than it was designed to contain, shall constitute in evidence a prima facie presumption that such person had drunk from said container and that such drinking had occurred in a place prohibited by this Section. (Ord. 2189; Ord. 81-141; 1968 Code § 5-74J)

9-3-105: DRINKING IN VEHICLES PROHIBITED:

- A. It shall be unlawful for any person or persons to drink any alcoholic liquor or three and two-tenths percent (3.2%) beer while in a vehicle which is moving, parked, stopped or standing on any street, roadway or other public way in the City, or for the driver, owner or person in control of any such vehicle to permit any person or persons to drink alcoholic liquor or three and two-tenths percent (3.2%) beer therein while such vehicle is being driven or is stopped, standing or parked on any street, roadway or other public way in the City.
- B. In any prosecution charging a violation of this Section, proof that the particular person described in the complaint, or any person in a vehicle of which the particular person named in the complaint was the driver, owner or person

in control, was found, while such vehicle was moving, parked, stopped or standing on any street, roadway or other public way in the City, in possession of any alcoholic liquor or three and two-tenths percent (3.2%) beer in a container which was not so closed or sealed so as to prevent a person from drinking from such container without removing said closure or seal, together with proof that such container held less than the full amount of such alcoholic beverage than it was designed to contain, shall constitute in evidence a prima facie presumption that such person had drunk from said container and that such drinking had occurred in a place prohibited by this Section. (Ord. 77-67; Ord. 81-141; 1968 Code § 8-13)

9-3-106: CLOSED BOOTHS PROHIBITED: It shall be unlawful for any person licensed under the provisions of this Chapter to have or maintain any private booths on or about the licensed premises for the service of food or drinks therein which such booth shall be closed or separated from the dining room of such licensee by a door, screen or curtain. (Ord. 1588; 1968 Code § 5-74K)

9-3-107: DELIVERY OF ALCOHOLIC LIQUORS; RESTRICTIONS:

- A. It shall be unlawful for any person to deliver or permit to be delivered any alcoholic liquor or three and two-tenths percent (3.2%) beer, except to the residence, abode or office of the person receiving the same.
- B. No delivery shall be made upon any street or alley or in any public park.
- C. No person employed for the purpose of making a delivery of malt or vinous liquors or three and two-tenths percent (3.2%) beer shall be under the age of eighteen (18) years, and no person employed for the purpose of making a delivery of spirituous liquors shall be under the age of twenty one (21) years. (Ord. 1588; Ord. 81-130; 1968 Code § 5-74O; 1980 Code)

9-3-108: 3.2% BEER RESTRICTIONS:

- A. It shall be unlawful for any person to sell, cause or permit to be sold, or offered for sale any fermented malt beverage containing not more than three and two-tenths percent (3.2%)

1. The Director of the Department of Parks and Recreation may issue a permit for the imbibing of alcoholic liquors and 3.2% beer in parks. See Section 18-5-411 of this Code.

- A) alcohol by weight at any place where any other malt, vinous or spirituous liquor is sold for consumption on the premises where sold. (Ord. 1486; 1968 Code § 5-74T)
- B. It shall be unlawful for any person to sell, cause or permit to be sold, or offer for sale any fermented malt beverage containing not more than three and two-tenths percent (3.2%) alcohol by weight without having posted on the outside and inside of such establishment in a plainly visible location, signs with letters not less than ten inches (10") each containing the words "only 3.2% beer sold here". (Ord. 1486; 1968 Code § 5-74U)

9-3-109: CONDUCT IN AND OF ESTABLISHMENTS:

- A. It shall be unlawful for any person licensed under the provisions of this Chapter to engage in or permit the following acts on the licensed premises:
 1. Employment or use of any person in the sale or service of alcoholic liquor or three and two-tenths percent (3.2%) beer while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or of any portion of the pubic hair, anus, cleft of the buttocks or genitals of either sex.
 2. Employment or use of the services of any host, hostess or other person to mingle with the patrons while such host, hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph 1 above.
 3. Any person on the licensed premises touching, caressing or fondling the breasts, buttocks, anus or genitals of himself or of any other person or, except as permitted in subsection B below relating to the providing of live entertainment, any person exposing to public view the female breast below the top of the areola or, without exception, exposing to public view the pubic hair, anus or genitals of either sex.
 4. Any person or employee on the licensed premises wearing or using any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

- B. Live entertainment is permitted on licensed premises; provided however, that it shall be unlawful for any person licensed under the provisions of this Chapter to permit any person or persons to perform acts of, or acts which simulate:
 1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 2. The touching, caressing or fondling of the breast, buttocks, anus or genitals of either the person providing the entertainment or of any other person.
 3. The displaying of the pubic hair, anus or genitals.
- C. No person licensed under the provisions of this Chapter shall permit any person to use artificial devices or inanimate objects to depict any of the activities prohibited in subsection B above.
- D. It shall be unlawful for any person licensed under the provisions of this Chapter to permit on his licensed premises the showing of film, still pictures, electronic reproductions, or other visual reproductions depicting any of the following:
 1. Acts, real or simulated, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 2. Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals, either by himself or by any other person.
 3. Scenes wherein a person displays the anus or genitals.
 4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
- E. It shall be unlawful for any person on the licensed premises, whether that person be present as an employee, patron or otherwise, to engage in any of the prohibited activities described above, and no licensee shall knowingly permit any person engaging in such activity to remain in or on the licensed premises. (Ord. 81-60)

9-3-110: EXCEPTIONS: The provisions of this Part 1 shall not apply to a public transportation system licensee under State statute. (Ord. 81-60; 1980 Code)

CHAPTER 9 ALCOHOLIC LIQUORS

ARTICLE 3 OFFENSES

PART 2 OFFENSES CONCERNING MINORS

SECTION:

- 9-3-201: Sales Prohibited
 9-3-202: Purchases Prohibited
 9-3-203: Possession Prohibited
 9-3-204: Employment of Minors; When Prohibited
 9-3-205: Responsibility of Determining Age

86-122; 1968 Code § 5-74E)

9-3-201: SALES PROHIBITED:

- A. It shall be unlawful for any person to sell, serve or deliver or cause or permit to be sold, served or delivered any alcoholic liquor within the City to any person under the age of twenty one (21) years.
- B. It shall be unlawful for any person to serve any alcoholic liquor to any adult person and permit said adult person to serve or give the same on the licensed premises to any person under the age of twenty one (21) years, in company with said adult person. (Ord. 2340; 1968 Code § 5-74D)
- C. It shall be unlawful for any person to sell, serve or deliver or cause or permit to be sold or delivered any three and two-tenths percent (3.2%) beer to any person under the age of eighteen (18) years. (1980 Code)
- D. It shall be unlawful for any person to sell, serve or deliver or cause to permit to be sold, or delivered any three and two-tenths percent (3.2%) beer to an adult person and permit said adult person to serve or give the same on the licensed premises to any person under the age of eighteen (18) years in company with said adult person. (Ord. 2340; 1968 Code, § 5-74D)

9-3-202: **PURCHASES PROHIBITED:** It shall be unlawful for any person under the age of twenty one (21) years to purchase, or attempt to purchase, any malt, vinous or spirituous liquors or, as to a person under the age of eighteen (18) years, to purchase, or attempt to purchase, three and two-tenths percent (3.2%) beer. (Ord. 1900; Ord. 81-130; Ord.

9-3-203: **POSSESSION PROHIBITED:** Except as permitted in the course of lawful employment, it shall be unlawful for any person under the age of twenty one (21) years to have in his or her possession malt, vinous or spirituous liquor or for any person under the age of eighteen (18) years to have three and two-tenths percent (3.2%) beer in his or her possession, in any store, in any public place, including public streets, alleys, roads, parks or highways, or in any other public place whatsoever within the jurisdiction of the City. (Ord. 2188; Ord. 81-130; 1968 Code § 5-74G)

9-3-204: EMPLOYMENT OF MINORS; WHEN PROHIBITED:

- A. It shall be unlawful for any licensee hereunder to employ any person under the age of twenty one (21) years to sell, serve, distribute or in any way handle spirituous liquors, or to permit any such employee to sell, serve, distribute or in any way handle spirituous liquors in or upon the licensed premises under the control of such licensee.
- B. It shall be unlawful for any licensee hereunder to employ any person under the age of eighteen (18) years to sell, serve, distribute or in any way handle malt or vinous liquors, or to permit any such employee to sell, serve, distribute or in any way handle malt or vinous liquors in or upon the licensed premises under the control of such licensee. (Ord. 1588; Ord. 2188; 1968 Code § 5-74F; 1980 Code)

9-3-205: RESPONSIBILITY OF DETERMINING

AGE: Every person selling, serving or delivering alcoholic liquors or three and two-tenths percent (3.2%) beer shall have the responsibility of determining the age of any person to whom he shall sell, serve or deliver alcoholic liquors or three and two-tenths percent (3.2%) beer and shall be directly responsible for all sales, service and gifts made on the licensed premises. (Ord. 1588; Ord. 81-130; 1968 Code § 5-74D)

CHAPTER 10

PUBLIC HEALTH AND SANITATION

ARTICLE 1	GENERAL PROVISIONS
ARTICLE 2	MEMORIAL HOSPITAL
ARTICLE 3	REGULATION OF PUBLIC HEALTH
ARTICLE 4	REGULATION OF SALE, SERVICE AND HANDLING OF FOOD
ARTICLE 5	SOLID WASTE DISPOSAL
ARTICLE 6	GARBAGE, REFUSE AND RUBBISH
ARTICLE 7	ENFORCEMENT
ARTICLE 8	NO SMOKING IN PUBLIC PLACES EXCEPT IN THOSE AREAS DESIG- NATED FOR SMOKING

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 1 GENERAL PROVISIONS

SECTION:

- 10-1-101: Purpose
- 10-1-102: Definitions
- 10-1-103: Contract for Health Services
- 10-1-104: Rules and Regulations

10-1-101: **PURPOSE:** The City Council hereby finds, determines and declares that it is necessary and conducive to the protection of the public health, safety and general welfare to provide a healthful, sanitary and clean environment for the residents of the City. This Chapter shall be liberally construed and strictly enforced to accomplish this purpose. (1980 Code)

10-1-102: **DEFINITIONS:**¹ The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

BOARD OF HEALTH: The Board of Health of the Department of Health of El Paso County.

CITY MANAGER: The City Manager of the City of Colorado Springs, Colorado, or his designated representative.

CODE ENFORCEMENT OFFICE: The duly authorized designee of the Director of Community Development with respect to the enforcement of the provisions of this Chapter 10.

DEPARTMENT OF HEALTH or the HEALTH DEPARTMENT: The Department of Health of El Paso County or its authorized employees.

DIRECTOR OF HEALTH or DIRECTOR: The Medical Director of the Department of Health of El Paso County, or his designated representative. (Ord. 82-226; 1980 Code)

10-1-103: **CONTRACT FOR HEALTH**

SERVICES: The City may provide by contract with any county or district health department which may be organized and operated pursuant to section 25-1-501 of the Colorado Revised Statutes 1973, as the same may be now or hereafter amended, and which includes the City within its permissible jurisdiction under the law, for health services to be rendered to the City and its inhabitants.² Such services may include but shall not be limited to maintenance and operation of health clinics and/or other health facilities, control and/or eradication of pests and disease, establishment and enforcement of regulations and standards concerning health and sanitation within the City, maintenance of vital statistics and other appropriate records and any inspection, analysis, testing or other similar activity incidental to providing these services. Any such contract existing on the effective date of this Code shall remain in full force and effect according to its terms. (1980 Code)

10-1-104: **RULES AND REGULATIONS:** Except as otherwise provided in this Chapter, all matters of health and/or sanitation within the City shall be governed by and in accordance with the rules, regulations, standards, methods, procedures and/or guidelines established, adopted or otherwise promulgated by the Board of Health of the Colorado Department of Health or by the Board of Health of the El Paso County Department of Health. In the event of any inconsistency or conflict between or among any of the aforementioned rules, regulations, standards, methods, procedures and/or guidelines, the more stringent thereof shall apply. (1980 Code)

1. For definitions of general application, see Section 1-1-203 of this Code.

2. The Department of Health of El Paso County is presently the contracting entity.

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 2 MEMORIAL HOSPITAL

SECTION:

- 10-2-101: Purpose
 10-2-102: Board of Trustees
 10-2-103: Power to Levy Tax

10-2-101: **PURPOSE:** The City Council hereby finds, determines and declares that it is in the interest of the public health, safety and general welfare for the City to own, operate and maintain a Municipal hospital, hereinafter "Memorial Hospital", and to own, operate and maintain a school of nursing in connection with said hospital, hereinafter "Memorial Hospital School of Nursing",¹ and the City may own, operate and maintain such hospital and school. (1980 Code)

10-2-102: BOARD OF TRUSTEES:

- A. There is hereby established the Memorial Hospital Board of Trustees. (Ord. 1856, adopted September 20, 1949 by vote of the electors of the City)
- B. The members of the Board of Trustees of Memorial Hospital shall be appointed by the City Council for terms of three (3) years. The Council shall by ordinance determine the number of members of the Board which shall not exceed fifteen (15) and may provide for the qualifications of said members (Ord. 3131, adopted April 6, 1965 by vote of the electors of the City)
- C. Pursuant to the above subsection it is determined that said Board of Trustees of Memorial Hospital shall consist of not less than five (5) members and not more than fifteen (15) members. (Ord. 76-118; 1968 Code § 1-161)
- D. Subject to the general supervision and control of the City Council and the City Manager, the supervision of the management of Memorial Hospital shall be vested in said Board, and subject to such general supervision and

- D) control, it shall exercise complete control over the operation, expenditures, personnel and employee matters, betterments, improvements, repairs, equipment, fiscal and other policies of the hospital, and said Board generally shall be empowered and authorized to do all things, not in conflict with the City Charter, for the operation, maintenance and development of Memorial Hospital. The Board shall advise the City Manager and Council of the amount deemed necessary to be raised by tax levy for the hospital for the ensuing fiscal year. If a school of nursing is maintained in conjunction with Memorial Hospital, the Board shall have like powers in the management of said school of nursing. (Ord. 1856, adopted September 20, 1949 by vote of the electors of the City; 1968 Code § 1-162)

10-2-103: POWER TO LEVY TAX:

- A. The City shall continue the operation and maintenance of Memorial Hospital, now owned by said City, and the City Council shall, commencing with the annual tax and appropriation ordinance for the year 1950, annually levy a tax and appropriate the proceeds therefrom solely for the use of said hospital. Said tax shall be sufficient to pay the estimated deficit in all expenses incurred in conducting, maintaining and improving the hospital in the next ensuing fiscal year, including payment of bonds and interest thereon, repairs, upkeep, betterments, equipment, supplies, depreciation, insurance, employees' salaries and all other expenses incident to the operation and maintenance of the hospital. (Ord. 1854, adopted September 20, 1949 by vote of the electors of the City; 1968 Code § 11-17)
- B. The City shall continue the operation and maintenance of a school of nursing at Memorial Hospital, now owned by said City, and, so long as said hospital is operated by the City, the City Council shall, commencing with the annual tax and appropriation ordinance for the year 1950, annually levy a tax and appropriate the

¹. Also known as Beth-El School of Nursing.

- B) proceeds therefrom solely for the use of said school. Said tax shall be sufficient to pay the estimated deficit in all expenses incurred in conducting, maintaining and improving the school in the next ensuing fiscal year, including payment of bonds and interest thereon, upkeep, equipment, supplies, depreciation, insurance, employees' salaries and all other expenses incidental to the maintenance of the school. (Ord. 1855, adopted September 20, 1949 by vote of the electors of the City; 1968 Code § 11-18)

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 3 REGULATION OF PUBLIC HEALTH

SECTION:

- 10-3-101: Epidemic and Communicable Diseases;
Notice Required
- 10-3-102: Epidemic and Communicable Diseases;
Quarantine
- 10-3-103: Epidemic and Communicable Diseases;
Unlawful Acts in Relation Thereto
- 10-3-104: Rat Harborage; Public Nuisance;
Abatement of
- 10-3-105: Public Restroom Facilities;
Fees for Use Prohibited

10-3-101: EPIDEMIC AND COMMUNICABLE DISEASES; NOTICE REQUIRED:

- A. It shall be the duty of every person, and it shall be the specific duty of every physician residing or practicing within the City, to give notice to the Health Department immediately of any case of an epidemic or communicable disease affecting the public health which has been or may have been contracted by any person.
- B. For the purposes of this Article, an epidemic or communicable disease affecting the public health is defined to be any disease so designated by the Health Department of El Paso County or the State of Colorado. (1980 Code)

10-3-102: EPIDEMIC AND COMMUNICABLE DISEASES; QUARANTINE: The Director of Health or an authorized representative of the State of Colorado shall have authority to impose a quarantine within the City for the duration of any epidemic or communicable disease affecting the public health. Such quarantine shall be imposed in accordance with any applicable ordinances, statutes, rules and/or regulations. (1980 Code)

10-3-103: EPIDEMIC AND COMMUNICABLE DISEASES; UNLAWFUL ACTS IN RELATION THERETO:

- A. It shall be unlawful for any person, whether as owner, occupant, lessee or agent, to rent or lease, or permit to be occupied by any person, any premises or portion thereof wherein an epidemic or communicable disease affecting the public health does or may exist or may have existed, until such house, room or place has been disinfected and such disinfection has been approved by the Director of Health.
- B. It shall be unlawful for any person to give, lend, sell or offer for sale any clothing or other article which does or may convey infection of any epidemic or communicable disease affecting the public health until such clothing or other article has been disinfected and such disinfection has been approved by the Director. (1980 Code)

10-3-104: RAT HARBORAGE; PUBLIC NUISANCE; ABATEMENT OF:

- A. For the purposes of this Section, "rat harborage" is defined to be any place wherein conditions exist which provide shelter or protection for rats or other vermin or which favor the propagation thereof.
- B. The maintenance of any building or premises, or the conduct of any business or activity, in such manner as to create or maintain a rat harborage, whether within the City or within one mile of the corporate limits of the City, is dangerous to the public health and is hereby declared to constitute a public nuisance.
- C. The Health Department and the Director of Community Development, or his designated representative shall have authority to take any necessary action to abate any rat harborage which does or may exist within the City pursuant to Article 7 of this Chapter. (Ord. 1686; Ord. 82-226; 1968 Code § 11-146; 1980 Code)

10-3-105: PUBLIC RESTROOM FACILITIES; FEES FOR USE PROHIBITED:

- A. The City Council hereby finds, determines and declares that, in order to foster the health, welfare, convenience and comfort of the inhabitants of the City, the use of public restroom facilities throughout the City shall be without fee or charge.
- B. For the purposes of this Section, the term "public restroom" shall mean any facility that is available to the public at large and is owned, leased or operated in any manner, whether or not totally, by any governmental authority within the City, and the term "facilities" shall mean toilets, urinals, sinks and towels.
- C. It shall be unlawful for any person to collect or attempt to collect any charge or fee for the use of any public restroom facility in the City. (Ord. 75-70; 1968 Code § 11-82)

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 4 REGULATION OF SALE, SERVICE AND HANDLING OF FOOD

SECTION:

- 10-4-101: Definitions
- 10-4-102: Food Service Establishment;
Permit Required
- 10-4-103: Food Service Establishment;
Terms of Permit
- 10-4-104: Food Processing Establishment;
Regulation of
- 10-4-105: Sale of Foodstuffs; Inspection by
Health Department
- 10-4-106: Sale of Food; Covering Required
- 10-4-107: Sale of Fruits and Vegetables;
Sanitary Requirements

10-4-101: **DEFINITIONS:**¹ The following terms, as used in this Article, shall have the meanings hereinafter designated unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

FOOD: Any raw, cooked or processed edible substance, or any beverage, ingredient, ice or water, used or intended for use or sale in whole or in part for human consumption.

FOOD PROCESSING ESTABLISHMENT: An establishment in which food is processed, prepared, packaged or distributed for human consumption, excluding food service establishments, retail food stores, or commissary operations.

FOOD SERVICE ESTABLISHMENT: Any establishment as defined in section 12-44-202 CRS 1973, as the same may be now or hereafter amended. (1980 Code)

10-4-102: **FOOD SERVICE ESTABLISHMENT; PERMIT REQUIRED:**

- A. It shall be unlawful for any person to conduct, operate or maintain within the City any food service establishment without having procured a permit therefor issued by the City Clerk.

- B. Any person desiring a permit required by this Section shall make application therefor on the appropriate form prescribed by the City Clerk. The City Clerk shall issue such permit upon payment of the applicable fee and upon approval of such application by the Department of Health. The City Clerk shall not issue such permit unless the actual and/or proposed conduct, operation and/or maintenance of the food service establishment of the applicant shall be in accordance with this Code, the rules and regulations of the Department of Health, the Statutes of the State of Colorado and the rules and regulations promulgated pursuant to such Statutes by the appropriate governmental entity. (1980 Code)

10-4-103: **FOOD SERVICE ESTABLISHMENT; TERMS OF PERMIT:**

- A. A permit to conduct, operate or maintain a food service establishment shall only be issued upon payment of the fee therefor in the amount of ten dollars (\$10.00), such fee to be payable annually thereafter upon renewal.
- B. Any permit issued pursuant to this Article shall expire September 30 following issuance, and no permit shall be issued for more than a period of one year. Any permit issued pursuant to this Article shall be nontransferable.
- C. Any permit issued pursuant to this Article shall be revocable for violation of any provision of this Code or any other law, rule or regulation adopted, established or approved by this Article. Upon the request of the Health Department, the City Clerk shall immediately suspend such permit for any such violation, which permit shall be revoked upon a finding by the El Paso County Board of Health that such violation exists. (1980 Code)

10-4-104: **FOOD PROCESSING ESTAB- LISHMENT; REGULATION OF:** It shall

¹ For definitions of general application, see Section 1-1-203 of this Code.

be unlawful for any person to conduct, operate or maintain within the City any food processing establishment except in accordance with this Code, the rules and regulations of the Board of Health, the Statutes of the State of Colorado and the rules and regulations promulgated pursuant to such Statutes by the appropriate governmental entity. (1980 Code)

10-4-105: SALE OF FOODSTUFFS; INSPECTION BY HEALTH DEPARTMENT:

- A. For the purposes of this Section, "foodstuffs" shall mean any fruits, vegetables, meats, eggs, fowl, milk or milk products or any article that may be used for food products.
- B. The Health Department may inspect and examine all foodstuffs offered or to be offered for sale in the City, and is hereby authorized to destroy or order the proper disposal of any and all foodstuffs which, from such examination, are found to be putrid, rotten, decayed, diseased, contaminated or of such quality or condition as to be dangerous to the public health or unfit for human consumption. (1980 Code)

10-4-106: SALE OF FOOD; COVERING REQUIRED:

- A. No person shall transport over any street, alley or other public way within the City any food intended for sale unless such food is wrapped or covered in such manner as to be effectively protected from insects, dust or other contaminating agencies.
- B. No person shall display any food for sale on any sidewalk or any unenclosed structure within the City unless such food is enclosed in a display case or otherwise wrapped or covered in such manner as to be effectively protected from insects, dust or other contaminating agencies.
- C. The prohibitions of this Section shall not apply to food which is contained by a skin or other outer covering which must be removed before such food is fit for consumption. (Ord. 852; 1968 Code §§ 11-46, 11-47)

10-4-107: SALE OF FRUITS AND VEGETABLES; SANITARY REQUIREMENTS:

- A. The handling, sale and distribution of fruits and vegetables within the City is hereby declared to be a matter affecting the public health of this City and its citizens and shall be under the supervision of the Health Department.
- B. All buildings, rooms, storerooms, stands, refrigerators or other places where fruits and vegetables are held, sold, displayed or offered for sale and all vehicles used in transportation of fruits and vegetables shall be kept and maintained in a sanitary condition, and it shall be unlawful for any person to sell or cause to be sold, offered for sale, or displayed any fruits or vegetables from any room, storeroom, stand, refrigerator or tray that is not in a clean and sanitary condition.
- C. It shall be unlawful for any person to sell, offer for sale or display any fruits or vegetables that are decayed, diseased or contaminated or of such quality or condition as to be unfit for human consumption or dangerous to public health. (Ord. 75-164; 1968 Code § 5-68)
- D. No person shall sort, clean or otherwise process any fruits or vegetables on any street, alley or other public way, or in any public park or on other public grounds of the City. (Ord. 852; 1968 Code § 11-48)

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 5 SOLID WASTE DISPOSAL

SECTION:

- 10-5-101: Definitions
- 10-5-102: Rules and Regulations
- 10-5-103: Certificate of Designation; Requirement of
- 10-5-104: Certificate of Designation; Application for
- 10-5-105: Certificate of Designation; Referral to
Planning Commission
- 10-5-106: Certificate of Designation; Power to Issue
- 10-5-107: Waiver of Compliance
- 10-5-108: Exemptions
- 10-5-109: Public Nuisance

10-5-101: **DEFINITIONS:**¹ The following terms, as used in this Article, shall have the meanings hereinafter designated unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

APPROVED SITE or APPROVED FACILITY: A site or facility for which a certificate of designation has been obtained as provided in this Article.

NONPUTRESCIBLE WASTES: Nonputrescible wastes means all solid wastes that are not putrescible wastes.

PERSON: An individual, partnership, private or municipal corporation, firm, or other association of persons.

PUTRESCIBLE WASTES: Those solid wastes that contain organic matter capable of being decomposed by microorganisms, and of such a character and proportion as to be capable of attracting or providing food for birds or disease vectors.

SOLID WASTE: Any garbage, refuse, sludge from a waste treatment plant that has been removed from the treatment process, sludge from water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial or commercial operations or from community activities. "Solid Waste" does not include any solid or dissolved materials in domestic sewage, agricultural wastes, solid or dissolved materials in irrigation return flows, industrial or municipal discharges which are

point sources subject to permits under the provisions of the "Colorado Water Quality Control Act", Article 8 of Title 25, C.R.S., or materials handled at facilities licensed pursuant to the provisions on radiation control in Article 11 of Title 25, C.R.S.

SOLID WASTE DISPOSAL: The collection and final disposal of solid waste.

SOLID WASTE DISPOSAL FACILITY: A facility wherein solid wastes are processed or receive final treatment prior to disposal. This term shall include transfer collection facilities which process, compact, or otherwise handle significant quantities of waste prior to final disposal, but shall not include mobile collection units or compaction units employed by a commercial facility to process its self-generated wastes for transportation by a commercial hauler.

SOLID WASTE DISPOSAL SITE: A site at which solid wastes are placed on or in the ground as a means of disposal. (Ord. 75-82; Ord. 85-181; Ord. 86-166; 1968 Code § 11-97; 1980 Code)

10-5-102: RULES AND REGULATIONS:

- A. The City hereby adopts and incorporates herein those rules and regulations relating to minimum standards, operations standards, site standards, and engineering design standards promulgated by the Colorado Department of Health pursuant to the Solid Waste Disposal Sites and Facilities Act, Title 30-20, Part 1, C.R.S. 1973, as amended, and published in the Code of Colorado Regulations, as well as any amendments thereto, except to the extent that such rules and regulations may conflict with the provisions of this Article. The City does not hereby relinquish to the County Board of Commissioners or the Colorado Department of Health any authority conferred by statute to approve solid waste disposal sites and facilities.
- B. The Environmental Services Division may promulgate and submit for adoption by the City Council such additional rules and regulations relating to the disposal of solid wastes as it deems necessary for the protection of the health, safety and well-being of the public. (Ord. 82-226; Ord. 85-181; 1980 Code)

1. For definitions of general application, see Section 1-1-203 of this Code.

10-5-103: CERTIFICATE OF DESIGNATION; REQUIREMENT OF: It shall be unlawful for any person to operate or permit the operation of a solid waste disposal site or solid waste disposal facility in the City without first having obtained a certificate of designation from the City Manager or City Council for such operation pursuant to Sections 10-5-106 and 10-5-107 of this Article. (Ord. 75-82; Ord. 85-181; 1968 Code § 11-98.1)

10-5-104: CERTIFICATE OF DESIGNATION; APPLICATION FOR:

- A. Any person desiring to operate a solid waste disposal site or disposal facility or combination thereof for putrescible or nonputrescible solid waste or a combination thereof shall make application to the City Clerk. Such application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00) and shall set forth the location and type of the site or facility, the type of processing to be used, such as sanitary land fill, composting or incineration, the grade proposed at the culmination of the operation, the hours of operation, the method of supervision, the rates to be charged, if any, and such other information as may be requested of applicant by the City for purposes of evaluating compliance with the rules and regulations pertaining to approval of an application for a certificate of designation. The application review process for a nonputrescible solid waste disposal facility or putrescible solid waste disposal site or facility or combination thereof shall differ from that for a nonputrescible solid waste disposal site as set forth herein.
- B. If the application is for a nonputrescible solid waste disposal facility or putrescible solid waste disposal site or facility or combination thereof, it shall be referred to the various City departments for review and recommendation as to approval or disapproval which recommendation shall be based upon applicable rules and regulations.
- C. If the application is for a nonputrescible solid waste disposal site, it shall be referred to the division manager of the environmental services division for review and recommendation as to approval or disapproval which recommendation shall be based upon compliance with applicable rules and regulations. (Ord. 75-82; Ord. 82-226; Ord. 85-181; 1968 Code § 11-98.2)

10-5-105: CERTIFICATE OF DESIGNATION; REFERRAL TO PLANNING COMMISSION: If the various City departments recommend approval of an application for a nonputrescible solid waste disposal facility or putrescible solid waste disposal site or facility or combination thereof, the application shall be referred to the Planning Commission. The Planning Commission, after giving public notice as set forth in Section 14-17-111 of this Code, shall hold a public hearing concerning the request of the applicant. The Planning Commission shall consider the effects of such site or facility or both on the surrounding land, the convenience and accessibility of such site or facility, the ability of the applicant to comply with all pertinent laws, rules and regulations, the comprehensive land use plan, and such other information as may be presented to the Planning Commission at the public hearing. Upon favorable recommendation by the Planning Commission, the application shall be forwarded to the City Council for action. Applicants may appeal any action taken by the Planning Commission in accordance with Section 14-17-113B of this Code. (Ord. 75-82; Ord. 82-226; Ord. 85-45; Ord. 85-181; 1968 Code § 11-98.3-1)

10-5-106: CERTIFICATE OF DESIGNATION; POWER TO ISSUE:

- A. The City Manager may grant a certificate of designation to an applicant for operation of a nonputrescible solid waste disposal site upon a recommendation of approval of such site by the Division Manager of the Environmental Services Division.
- B. The City Council may grant a certificate of designation to an applicant for operation of a putrescible solid waste disposal site or facility or a nonputrescible solid waste disposal facility, or combination thereof.
- C. In considering an application for a certificate of designation, the City Manager or City Council shall take into account:
 - 1. The effect that the solid waste disposal site or facility will have on the surrounding property, taken into consideration the types of processing to be used, surrounding property uses and values, applicable zoning laws, and wind and climatic conditions;

- C) 2. The convenience and accessibility of the solid wastes disposal site and facility to potential users;
3. The ability of the applicant to comply with the health standards and operating procedures required by this Article and by the rules and regulations pertaining to solid wastes disposal sites and facilities;
4. Recommendations by the various City departments and divisions. (Ord. 75-82; Ord. 85-181; 1968 Code §§ 11-98.1, 11-98.3; 1980 Code)

10-5-107: WAIVER OF COMPLIANCE: Upon request, the division manager of the Environmental Services Division of the City may, in his discretion, waive compliance with those operation standards, and engineering design standards which are a part of those rules and regulations referenced in Section 10-5-102 of this Article provided that:

- A. The benefits derived from meeting a standard do not bear a reasonable relationship to the economic, environmental, and energy impacts or other factors which are peculiar to the facility, or
- B. 1. Such waiver is consistent with the purposes of this Article and the accompanying regulations, and
2. Such waiver is not deemed to constitute a material variation from the requirements of this Article and the accompanying regulations, and
3. The waiver will not cause or allow the violation of any air or water quality standard. (Ord. 85-181)

10-5-108: EXEMPTIONS: This Article shall not apply to:

- A. Any person disposing of his own solid waste on his own property as long as such solid wastes disposal site complies with those rules and regulations referenced in Section 10-5-102 of this Article and does not constitute a public nuisance;

- B. Those sites and facilities which are subject to a permit issued pursuant to the Colorado Mined Land Reclamation Act, Sections 34-32-101, et. seq., C.R.S.
- C. Those sites and facilities subject to a license issued pursuant to the Radiation Control Act, Sections 25-11-101, et. seq., C.R.S.;
- D. Those sites and facilities subject to a certificate of designation or treatment, storage, or disposal permit issued pursuant to the Hazardous Waste Act, Sections 25-15-101, et. seq., C.R.S.;
- E. Those sites and facilities which are industrial or municipal discharges which are point sources subject to permits under provisions of the Colorado Water Quality Control Act, Sections 25-8-101, et. seq., C.R.S.;
- F. Those sites and facilities, including processing facilities, operated to reclaim or recycle metal, glass, cloth, or other solid wastes, unless operated on the site of a landfill or incinerator operation;
- G. Those sites or facilities where sludge is used beneficially as a fertilizer, soil conditioner, fuel or livestock feed provided the sludge is certified to have met all applicable regulations of the Department of Agriculture.
- H. Solid Wastes which will be beneficially refused. (Ord. 85-181)

10-5-109: PUBLIC NUISANCE: Any solid waste disposal site or facility which is operated or closed in violation of any provision of this Code or any rule or regulation implemented thereunder, shall be deemed a public nuisance and may be abated pursuant to Article 7 of this Chapter. (Ord. 82-226; Ord. 85-181; 1980 Code)

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 6 GARBAGE, REFUSE AND RUBBISH

SECTION:

- 10-6-101: Definitions
- 10-6-102: Collection by City Prohibited
- 10-6-103: Collection and Disposal of Garbage;
Responsibility for
- 10-6-104: Preparation for Collection
- 10-6-105: Improper Accumulation Prohibited

10-6-101: DEFINITIONS:¹ The following terms, as used in this Article, shall have the meanings hereinafter designated unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

ASHES: The solid waste product resulting from the combustion of any material.

BUILDING RUBBISH: Waste material resulting from the construction, remodeling, repair or demolition of a house, building or other structure.

COLLECTOR: Any person licensed by the City to engage in the collection, removal and/or disposal of garbage, refuse or rubbish.

GARBAGE: Waste material resulting from the preparation, cooking and/or consumption of food or waste material resulting from the handling, storage, preparation and/or sale of foodstuffs, excluding food processing waste material from canneries, slaughterhouses, packing plants or other similar industries and further excluding large quantities of condemned food products.

GARBAGE CONTAINER: A container made of galvanized metal or other suitable material which has a tight-fitting lid and is watertight, and the capacity of which does not exceed thirty two (32) gallons and is not less than eight (8) gallons. Any such container used for commercial garbage shall mean a container of the type and capacity commonly known as a "roll-off container" or "rear loader" or the equivalent thereof. All containers shall be furnished by the producer, either by direct ownership or by lease, and it shall be the responsibility of the producer to maintain

any such container in a tightly covered and sanitary condition in accordance with the requirements of the Department of Health.

HOUSEHOLD RUBBISH: Waste material or rejected, valueless or worthless matter, material, trash or debris, including useless, unused, unwanted or discarded articles, resulting from the occupation, use and enjoyment of an ordinary household, excluding ashes, sod, dirt, garbage, yard rubbish or building rubbish.

MINIMUM SERVICE: That degree of service necessary to maintain a premises in a clean and orderly condition.

OWNER: Shall include the owner of record, whether person, partnership, corporation, firm or other association of persons, any authorized agent or representative of the owner of record, or any occupant of the premises.

POINT OF COLLECTION: A point established for the collection of garbage, refuse or rubbish which is accessible to the collector and which is adjacent to or abuts a public alley or, if the premises subject to collection is not adjacent to a public alley, the most accessible point.

PREMISES: A lot or portion thereof, parcel of land, building or establishment. For the purpose of any duty or obligation imposed by this Article, such term shall also include that area extending to the center line of any alley adjacent to such lot or portion thereof, parcel of land, building or establishment or, if no such alley exists, including all easements of record, to and including the curb and gutter of the street on any side of such lot or portion thereof, parcel of land, building or establishment. Should there exist no adjacent private property, the premises shall be deemed to include the entire width of any adjacent alley.

RECYCLABLE MATERIAL: That type of material that is or may be subject to reuse or recycling.

RECYCLING OPERATION: That part of a solid waste disposal facility or general disposal facility at which recyclable material is or may be separated from other material for further processing.

¹ For definitions of general application, see Section 1-1-203 of this Code.

REFUSE: Waste material, excluding garbage, attending or resulting from the occupancy of a residence, apartment, hotel or other place or dwelling, or from the operation of a business.

REFUSE CONTAINER: A container of such size which is capable of containing all refuse and rubbish normally produced by the producer between pick-up periods, and which is tightly secured to ensure that no possible leakage or spillage from the sides, top or bottom of such container shall occur.

RUBBISH: Building rubbish, household rubbish and/or yard rubbish.

YARD RUBBISH: Tree branches, twigs, grass, shrub clippings, weeds, leaves and other general yard and garden waste material. (Ord. 2092; Ord. 86-214; 1980 Code)

10-6-102: COLLECTION BY CITY PROHIBITED:

The City shall not collect or remove any trash, ashes, garbage or refuse except in the event of an emergency, as determined by the Health Department, or other designated clean-up days as proclaimed by the Mayor. (Ord. 2034, adopted July 15, 1952 by vote of the electors of the City; 1968 Code § 11-99.1; 1980 Code)

10-6-103: COLLECTION AND DISPOSAL OF GARBAGE; RESPONSIBILITY FOR:

- A. The owner, of any premises wherein any garbage or refuse is produced shall be responsible to provide for minimum service for such garbage or refuse or both at the point of collection, unless it is shown to the satisfaction of the Code Enforcement Officer that such garbage or refuse is disposed of in a manner which is not harmful to the public health or does not create a nuisance or other unsanitary condition.
- B. All garbage, refuse, rubbish or ashes collected within the City shall be transported to and disposed of at an approved site or facility, as defined in Section 10-5-101. (Ord. 2092; Ord. 86-214; 1968 Code § 11-99.5; 1980 Code)

10-6-104: PREPARATION FOR COLLECTION:

- A. All garbage shall be placed in a garbage container.

- B. Refuse, household rubbish and yard rubbish may be placed in a garbage or refuse container; provided, however, that such rubbish shall be no longer than three feet (3') in length.
- C. It shall be unlawful for any person or any producer of garbage, refuse, rubbish or ashes to place or deposit such material in any container except in a garbage or refuse container or for any person or producer of such material to place or scatter such material on the ground, or to contract or arrange for the collection and removal of such material except by licensed refuse and garbage collectors.
- D. Nothing in this Section shall be construed to prevent the accumulation of compost by any person on his premises; provided, however, that the accumulation of such compost shall not be in a condition which is dangerous to the public health, safety and welfare. For the purposes of this Section, "compost" shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning land. (Ord. 2092; 1968 Code §§ 11-99.3, 11-99.4; 1980 Code)

10-6-105: IMPROPER ACCUMULATION PROHIBITED:

It shall be unlawful for the owner or occupant of any premises to permit the accumulation thereon of garbage, refuse or rubbish which is fermenting or putrefying or which constitutes a rodent harborage or other condition dangerous to the public health. Any such accumulation may be abated by action initiated pursuant to Article 7 of this Chapter. (Ord. 2092; 1968 Code § 11-99.11; 1980 Code)

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 7 ENFORCEMENT

SECTION:

- 10-7-101: Authorization
- 10-7-102: Right of Entry
- 10-7-103: Abatement; Commencement of Proceedings
- 10-7-104: Notice and Order
- 10-7-105: Appeal of Notice and Order; Hearing
- 10-7-106: Failure to Comply With Order to Abate
- 10-7-107: Lien Assessment
- 10-7-108: Abatement; Emergency Order
- 10-7-109: Remedies; Additional

10-7-101: **AUTHORIZATION:** The Director of Community Development or his designated representative is hereby authorized to enforce within the City all provisions of this Chapter. (Ord. 82-226; 1980 Code)

10-7-102: **RIGHT OF ENTRY:**

- A. Where the Director of Community Development or his designated representative has reasonable cause to believe that there may exist on any premises located within the City a condition which is dangerous to the public health, he may enter upon any such premises at any reasonable hour for the purpose of inspecting, abating, removing or preventing any such condition.
- B. In the event that the owner or occupant of any premises located within the City refuses to permit entry by the Director of Community Development or his designated representative when such entry is sought pursuant to subsection A of this Section, the Director of Community Development or his designated representative may make application to any judge of the Municipal Court of the City for the issuance of an inspection warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired, and shall state the facts giving rise to the belief that a condition which is dangerous to the public health exists at such premises. Any warrant issued pursuant to such application shall command such owner or

- B) occupant to permit entry by the Director of Community Development or his designated representative for the purpose stated therein. (Ord. 82-226; 1980 Code)

10-7-103: **ABATEMENT; COMMENCEMENT OF PROCEEDINGS:** Whenever the Code Enforcement Office has reasonable cause to believe that there exists on any premises located within the City a condition which is dangerous to the public health, which violates any provision of this Chapter or any rule or regulation of the Health Department, or which is declared by any provision of this Chapter to be a public nuisance, it may commence proceedings to abate such condition in the manner hereinafter provided. (Ord. 82-226; 1980 Code)

10-7-104: **NOTICE AND ORDER:**

- A. The Code Enforcement Office shall commence abatement proceedings pursuant to this Article by issuing a notice and order to the owner, or agent of the owner and occupant of any premises upon which it has reasonable cause to believe a condition as described in Section 10-7-103 exists.
- B. Such notice and order shall:
 - 1. Be in writing;
 - 2. Be personally served whenever feasible on the owner, or agent of the owner and occupant of such premises or, when such personal service is not feasible, either posted conspicuously at the premises or mailed to such person by certified mail, return receipt requested, to his last known address.;
 - 3. Describe with reasonable particularity the condition existing on the premises which gives rise to the issuance of the notice and order;
 - 4. Specify a reasonable period within which the condition must be abated or otherwise corrected; and
 - 5. State that an appeal is available to the Director of Community Development provided

- B,5) written application therefor is made within five (5) days of service or posting or receipt of such notice and order. (Ord. 81-127; Ord. 82-226; 1980 Code)

10-7-105: APPEAL OF NOTICE AND ORDER; HEARING:

- A. All appeals of notice and orders under this Article 7 shall be in accordance with the requirements of Section 14-18-101 et. seq. of the Code of the City of Colorado Springs 1980, as amended.
- B. At any hearing held pursuant to this Section the person requesting such hearing shall have the burden of establishing the impropriety of the notice and order by proving that the condition described therein does not exist on his premises or that such condition does not violate any provision of this Chapter or any rule or regulation of the Health Department, has not been declared by any provision of this Chapter to be a public nuisance, and is not otherwise dangerous to the public health.
- C. The Director of Community Development may conduct the hearing and take the evidence or may designate a representative to:
1. Issue in the name of the Director of Community Development notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 2. Take the evidence;
 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, to the Director of Community Development together with recommendations for action thereon.
- D. Testimony taken at any hearing held pursuant to this Section shall be under oath and recorded stenographically. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charge therefor.
- E. Upon review of the evidence the Director of

- E) Community Development shall make written findings of fact. Thereupon the Director of Community Development may affirm, modify or withdraw the notice and order. Any affirmation or modification of the notice and order shall be deemed to be the final order of the Director of Community Development.

- F. In the event that no hearing is requested within the prescribed time or the person requesting such hearing fails to appear at the time and place designated by the Director of Community Development, the notice and order shall automatically become a final order to abate or otherwise correct the condition described therein. (Ord. 81-127; Ord. 82-226; Ord. 85-272; 1980 Code)

10-7-106: FAILURE TO COMPLY WITH ORDER TO ABATE:

- A. It shall be unlawful for any person to fail or refuse to comply with any order issued to him pursuant to this Article.
- B. In the event that any order issued pursuant to this Article is not complied with at such reasonable time as is specified therein, the Director of Community Development, after notice to the owner, or agent of the owner or occupant may direct the Code Enforcement Office or may request the Department of Public Works of the City to have removed, corrected or otherwise abated through private contract the condition giving rise to the issuance of the order to abate. The procedures outlined in Chapter 7, Article 1 of this Code for the collection of the cost and expenses thereof shall apply independently and in addition to the penalty provided by this Code for violation of any provision of this Chapter. (Ord. 82-226; Ord. 86-214; 1980 Code)

10-7-107: LIEN ASSESSMENT: In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the cost and expenses for the removal, correction or other abatement of the condition giving rise to the issuance of the order to abate, a lien may be assessed against the property for such cost in

accordance with Chapter 7, Article 1 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 81-127; 1980 Code)

10-7-108: ABATEMENT; EMERGENCY ORDER:

- A. Whenever the Director of Community Development deems that an emergency exists which requires immediate action to protect the public health, he may, without prior notice or hearing, issue an order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this Article to the contrary, such order shall be effective immediately.
- B. Any person to whom such emergency order is issued shall comply therewith immediately, and it shall be unlawful to fail or refuse to so comply.
- C. In the event that the person to whom such emergency order is issued fails or refuses to immediately comply therewith, the Director of Community Development may request, without prior notice to the owner, occupant or agent of the owner, that the Department of Public Works have removed, corrected or otherwise abated the condition giving rise to the issuance of the emergency abatement order. Except as otherwise provided herein, the provisions of Section 10-7-106B and Section 10-7-107 shall apply to such removal, correction or other abatement. (Ord. 81-127; Ord. 82-226; 1980 Code)

10-7-109: REMEDIES; ADDITIONAL: The remedies provided in this Article shall be cumulative and in addition to any other remedies which may be available to the Director of Community Development. Nothing contained herein shall be construed to preclude the Director of Community Development from seeking such other remedies in addition to, or in lieu of, the remedies herein granted. (Ord. 82-226; 1980 Code)

CHAPTER 10 PUBLIC HEALTH AND SANITATION

ARTICLE 8 NO SMOKING IN PUBLIC PLACES EXCEPT IN THOSE AREAS DESIGNATED FOR SMOKING

SECTION:

10-8-101: Legislative Intent
 10-8-102: Definitions
 10-8-103: Smoking Prohibited
 10-8-104: Smoking Prohibited in Certain Public Places
 10-8-105: Designation of Smoking Areas
 10-8-106: Signs
 10-8-107: Prohibited Smoking Area
 10-8-108: Enforcement

10-8-101: **LEGISLATIVE INTENT:** Because the smoking of tobacco or any other weed or plant is a danger to health and is a cause of material annoyance and discomfort to those who are present in confined areas, City Council hereby finds, determines, and declares it is necessary and conducive to the protection of the public health, safety, welfare, and economic well-being to prohibit smoking in all public places which are used by or open to the public unless such areas are designated as smoking areas pursuant to this Article. (Ord. 85-119)

10-8-102: **DEFINITIONS:**

PUBLIC PLACE: Any enclosed, indoor areas used by the general public including, but not limited to, restaurants, retail stores, other commercial establishments, governmental offices, waiting rooms of health care professionals, public conveyances, airports, bus stations, educational facilities, hospitals, nursing homes, child care centers, auditoriums, arenas, assembly and meeting rooms, and restrooms, but the term does not include enclosed offices occupied exclusively by smokers, even though such offices may be visited by nonsmokers.

SMOKING: Smoking means the carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind and includes the lighting of a pipe, cigar, or cigarette of any kind. (Ord. 85-119)

10-8-103: **SMOKING PROHIBITED:** No person shall smoke, light, or carry any lighted smoking instrument in a public place except in permitted smoking areas. (Ord. 85-119)

10-8-104: **SMOKING PROHIBITED IN CERTAIN PUBLIC PLACES:**

A. Except as otherwise provided in this Article, smoking is prohibited in the following indoor public places:

1. Elevators, museums, galleries, and libraries of any establishment doing business with the general public.
2. All hospitals except in areas designated for smoking.
3. All buildings owned or operated by the City of Colorado Springs except in areas designated for smoking.
4. All buildings in the City of Colorado Springs which are open to the public including, but not limited to, retail stores, grocery stores and mercantile stores, except in areas designated for smoking. (Ord. 85-119)

10-8-105: **DESIGNATION OF SMOKING AREAS:**

All public places are hereby declared to be nonsmoking areas unless the owner, proprietor, or person in charge designates a smoking area.

A. In restaurants with a seating capacity for over fifty (50) persons, the owner, proprietor, or person in charge may provide a smoking area of sufficient size to accommodate without unreasonable delay patrons who request to be seated in such an area. The delay shall be deemed reasonable if it is equal for smokers and nonsmokers. If a waiting area is provided such area may not be designated a smoking area.

- A) Patrons shall be advised orally or by signs that smoking areas are available. In restaurants with a seating capacity for fifty (50) or less, the owner, proprietor, or person in charge may designate smoking areas as desired.
- B. In all other public places the owner, proprietor or person in charge who designates a smoking area shall designate such an area so that it is not necessary for nonsmokers to pass through such area to reach other nonsmoking areas. (Ord. 85-119)

10-8-106: **SIGNS:** To advise persons of the existence of no smoking in public places and the availability of smoking designated areas, if any, signs shall be posted as follows:

- A. In public places where the owner, proprietor or person in charge prohibits smoking in the entire public place, a sign using the word "no smoking" or the international no smoking symbol, or both, shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the public place.
- B. In public places where certain areas are designated as smoking areas pursuant to this Chapter, the statement "no smoking except in designated areas", shall be conspicuously posted on all public entrances or in a position clearly visible on entering into the public place.
- C. In public places where smoking is permitted in the entire building or area a sign using the words "this area is a smoking area in its entirety" shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the area or building. (Ord. 85-119)

10-8-107: **PROHIBITED SMOKING AREA:**

Smoking shall not be permitted and smoking areas shall not be designated in those areas where smoking is prohibited by the Fire Chief, State Statute, ordinances, Fire Code regulations, or other regulations of the City of Colorado Springs. (Ord. 85-119)

10-8-108: **ENFORCEMENT:** In accord with the

City's contract for health services as set out in Section 10-1-103 of City Code 1980, as amended, the Medical Director of the Department of

Health of El Paso County, or his designated representative, shall work with owners, proprietors, and persons in charge of public places; employers and employees in work places; and all citizens of the City of Colorado Springs to achieve compliance with this Ordinance. The Medical Director of the Department of Health of El Paso County, or his designated representative, shall have the authority to call upon the City Attorney or his designated representative to maintain an action to enforce the provisions of this ordinance.

In any event, it shall be unlawful for any person to knowingly smoke in a public place except in a designated smoking area. (Ord. 85-119)

CHAPTER 11

REGULATION OF ANIMALS

ARTICLE 1	GENERAL PROVISIONS
ARTICLE 2	REGULATION OF DOGS AND CATS
ARTICLE 3	REGULATION OF HOOFED ANIMALS
ARTICLE 4	IMPOUNDMENT, REDEMPTION AND DISPOSAL OF ANIMALS

CHAPTER 11 REGULATION OF ANIMALS

ARTICLE 1 GENERAL PROVISIONS

SECTION:

- 11-1-101: Definitions
- 11-1-102: Construction
- 11-1-103: Nonconforming Uses
- 11-1-104: City Animal Shelter
- 11-1-105: Animals Kept on Premises;
Sanitary Requirements
- 11-1-106: Duty to Restrain Certain Animals
- 11-1-107: Vicious Animals
- 11-1-108: Rabid Pets or Animals
- 11-1-109: Specific Animals Prohibited
- 11-1-110: Exotic Animals; Permit Required
- 11-1-111: Exotic Animals; Application for Permit
- 11-1-112: Exotic Animals; Denial, Revocation of
Permit
- 11-1-113: Exotic Animals; Failure to Obtain
Permit; Impoundment
- 11-1-114: Noisy Pets or Animals Prohibited
- 11-1-115: Indecent Exhibition Prohibited
- 11-1-116: Animal Fights Prohibited
- 11-1-117: Cruelty to Animals Prohibited
- 11-1-118: Unlawful Sale or Display

11-1-101: **DEFINITIONS:**¹ The following terms, as used in this Chapter, shall have the meanings hereinafter designated unless the context specifically indicates otherwise or unless such meaning is excluded by express provision:

ANIMAL: Any animal, hoofed or otherwise, including any cat, dog, fowl or rabbit.

AT LARGE: Off the premises of the owner or keeper, and not under direct physical restraint.

CAT: Any member of the felidae family, including the domestic cat.

DIRECTOR OF HEALTH or DIRECTOR: Except as used in Sections 11-1-110 through 11-1-113 relating to exotic animals, wherein the term Director shall mean the Executive Director of the Humane Society of the Pikes Peak Region, or his designee, the Medical Director of the Department of Health of El Paso County, or his designated representative.

DOG: Any dog, bitch or pup.

FOWL: Any fowl, including any chicken, duck, goose, turkey, pigeon or other fowl.

HEALTH DEPARTMENT: The Department of Health of El Paso County.

HOOFED ANIMAL: Any hoofed animal, including any cattle, sheep, goat, horse or mule.

HUMANE OFFICER: Any authorized agent or representative of the Humane Society.

HUMANE SOCIETY: The Humane Society of the Pikes Peak Region.

PET: Any domesticated or wild animal which is fed, watered, harbored or allowed to remain at or in the vicinity of a residence in the City by any person, excluding:

- A. Any hoofed animal;
- B. Any animal held for sale by a dealer in animals;
- C. Any animal in a zoo, exhibition or fair authorized by the City; and
- D. Any animal which is held for use in bona fide scientific research. (Ord. 74-114; Ord. 81-203; 1968 Code § 11-112; 1980 Code)

11-1-102: **CONSTRUCTION:** In the event of any inconsistency or conflict between any requirement of this Chapter and the requirements of any zoning ordinance of the City, the more restrictive provision(s) shall apply. (Ord. 74-114; 1968 Code §§ 11-113, 11-143.2; 1980 Code)

11-1-103: **NONCONFORMING USES:** Existing uses not in conformance with the provisions of this Chapter are hereby declared nonconforming and may continue to exist without increase, unless such nonconforming use constitutes a nuisance or is otherwise dangerous to the public

¹ For definitions of general application, see Section 1-1-203 of this Code.

health. In such event the Health Department may initiate and pursue to completion proceedings to abate such nonconforming use pursuant to Article 7 of Chapter 10 of this Code, or in any other manner as may be provided by law. (Ord. 74-114; 1968 Code §§ 11-114, 11-143.2; 1980 Code)

11-1-104: CITY ANIMAL SHELTER:

- A. The City shall provide and maintain an animal shelter in a suitable location within or near the City for the impoundment of animals as provided in Articles 1 through 4 of this Chapter.
- B. The City may provide by contract with any public agency, private society or association which is interested in the humane care and treatment of animals, for the establishment, maintenance and operation of such animal shelter. (Ord. 74-114; 1968 Code § 11-123; 1980 Code)

11-1-105: ANIMALS KEPT ON PREMISES; SANITARY REQUIREMENTS:

Animals may be kept within the City upon compliance with the following requirements:

- A. All fecal waste shall be removed as necessary from premises and placed in closed fly tight containers. The contents of said containers shall be removed from the City as necessary to prevent such contents from becoming a nuisance.
- B. The premises upon which animals are kept shall be maintained in a clean and sanitary condition and shall be subject to inspection at all reasonable hours by representatives of the Health Department.
- C. The premises upon which an animal is kept shall be fenced or the animal tied so that the animal while unattended is securely contained thereon and is not a danger to persons or property.
- D. The number of rabbits or fowl shall not exceed one rabbit or fowl for each nine (9) cubic feet of enclosed area exclusive of shed, shelter or coop, and such shed, shelter or coop shall contain an area of not less than two (2) square feet for each rabbit or fowl. The maximum

- D) number of rabbits or fowl maintained on a premises shall not exceed ten (10) each of the age of six (6) months or older.
- E. The maximum number of dogs or cats kept on the premises shall not exceed four (4) each after attaining the age of four (4) months, except in conformance with Section 11-2-109 et seq. (Ord. 74-114; 1968 Code § 11-113; 1980 Code)

11-1-106: DUTY TO RESTRAIN CERTAIN ANIMALS:

- A. It shall be the duty of any owner or keeper of a dog or a hoofed animal to keep such dog or hoofed animal under such control or physical restraint as to prevent such dog or hoofed animal from becoming a danger to persons or property or from trespassing upon the property of another.
- B. It shall be the duty of any owner or keeper of any dog or hoofed animal to restrain such dog or hoofed animal from running at large upon the streets, sidewalks, alleys, parks or other public places in the City.
- C. It shall be unlawful for any person to fail or refuse to comply with the duties set out in this Section. In any action for enforcement of this Section wherein the animal in question is a bitch in heat, the court shall consider such fact in the imposition of a fine or penalty. (Ord. 74-114; 1968 Code § 11-115; 1980 Code)

11-1-107: VICIOUS ANIMALS:

- A. It shall be unlawful for any person to own or keep any dangerous, fierce or vicious animal. Such animal is hereby declared a nuisance and may be taken up and impounded or confined, as provided in this Chapter; provided, however, that if any dangerous, fierce or vicious animal found running at large cannot safely be taken up and impounded, such animal may be killed by any peace officer. Upon conviction of any person for a violation of this Section, the judge may order that such animal be destroyed. For purposes of this Section, a dangerous, fierce or vicious animal is defined to be any animal that attacks or bites a person or animal anywhere in

- A) the City other than upon the property of the owner or keeper. (Ord. 75-125; 1968 Code § 11-116; 1980 Code)
- B. It shall be the duty of the owner or keeper of any dangerous, fierce or vicious hoofed animal to prevent such hoofed animal from trespassing or running at large. In the event that any dangerous, fierce or vicious hoofed animal is found trespassing or running at large, the owner or keeper of such hoofed animal shall be deemed guilty of a violation of this Section. Such hoofed animal is hereby declared a nuisance and may be taken up and impounded or confined, as provided in Article 4 of this Chapter. Upon conviction of any person for violation of this Section, the judge may order that such hoofed animal be destroyed. For purposes of this Section, a dangerous, fierce or vicious hoofed animal is defined to be any hoofed animal that attacks, bites or gores a person or animal upon the streets, sidewalks or any public or private place in this City. (Ord. 74-59; 1968 Code § 11-143.8; 1980 Code)

11-1-108: RABID PETS OR ANIMALS:

- A. Where the Humane Officer or Director of Health has reasonable cause to believe that an animal is rabid or has bitten a person or other animal, such animal shall be confined in accordance with section 25-4-604 CRS 1973, as the same may be now or hereafter amended. (Ord. 75-6; 1968 Code § 11-116; 1980 Code)
- B. Whenever in the opinion of the Director the danger to the public safety from rabid animals is imminent the Mayor shall publish in a daily newspaper a proclamation requiring all persons owning, keeping or having any dog, cat or other animal to confine the same by good and sufficient means to the house, yard or building within his premises for such time as the Mayor shall in such proclamation declare. Such dog, cat or other animal shall only be allowed away therefrom during that time upon leash accompanied by the owner or other responsible person. (Ord. 74-114; 1968 Code § 11-137; 1980 Code)

11-1-109: SPECIFIC ANIMALS PROHIBITED:

- A. It shall be unlawful for any person to own or keep any rooster within the City. (Ord. 74-114; 1968 Code § 11-117)
- B. It shall be unlawful for any person to own or keep any hogs or pigs within the City. (Ord. 74-59; 1968 Code § 11-143.10)

11-1-110: EXOTIC ANIMALS; PERMIT REQUIRED:

- A. Except as provided in subsection B of this Section, no person shall own or keep within the City any animal which is not commonly domesticated or which is not common to North America or which, irrespective of geographic origin, is of a wild or predatory nature, without having first obtained a permit for such animal issued by the Humane Society.
- B. The provisions of subsection A of this Section shall not apply to the owning or keeping of birds, small rodents or small nonpoisonous reptiles not exceeding six feet (6') in length commonly used for educational or experimental purposes or for pets, nor shall such provisions apply to the owning or keeping of exotic animals by zoos, circuses or recognized institutions of learning or scientific research. (1980 Code)

11-1-111: EXOTIC ANIMALS: APPLICATION FOR PERMIT:

- A. All applications for a permit required by Section 11-1-110 shall be made to the Director on a form prescribed by the Director. A fee of twenty five dollars (\$25.00) shall accompany the application, five dollars (\$5.00) of which shall be considered an application fee and shall not be refunded if the permit is denied.
- B. After determining that the animal will be treated humanely and will not endanger the health or safety of the surrounding neighborhood or cause a nuisance, the Director

- B) shall issue to the applicant an exotic animal permit. In making such determination the Director may inspect the premises on which the animal is to be kept.
- C. Any exotic animal permit issued pursuant to this Section shall be valid for one year and shall be renewed annually. Such permit shall be nontransferable. (1980 Code)

11-1-112: EXOTIC ANIMALS; DENIAL, REVOCATION OF PERMIT:

- A. The Director may deny an application for an exotic animal permit if:
 - 1. The applicant has made any materially false or misleading statement in the application or has concealed relevant information;
 - 2. The applicant has obtained the exotic animal through illegal means;
 - 3. The applicant is not qualified to possess such exotic animal, does not have adequate facilities to keep such animal or proposes to keep the animal in an unsuitable location;
 - 4. The public health, safety and welfare justifies the denial of the application.
- B. The Director may revoke any exotic animal permit for any reason set forth in subsection A of this Section or if he determines that the exotic animal has become a nuisance or is otherwise in violation of this Chapter or any other provision of this Code or State statute.
- C. The Director shall notify in writing any person whose application has been denied or whose permit has been revoked. Such notice shall be mailed to such person at the address given in the application for the exotic animal permit and shall state the grounds for denial or revocation. Any person whose application has been denied or permit revoked may not again apply for an exotic animal permit until six (6) months have elapsed from the date of such denial or revocation.
- D. Any person aggrieved by an action of the Director pursuant to this Section may appeal such action to the City Council by filing with

- D) the City Clerk within ten (10) days after the date of such action a written notice of appeal briefly stating the reasons upon which such appeal is based. The City Clerk shall notify the appealing party, the Director and the applicant or permittee if other than the appealing party of the date on which the matter will be heard by the City Council. The applicant may keep the animal pending the outcome of the appeal. (1980 Code)

11-1-113: EXOTIC ANIMALS; FAILURE TO OBTAIN PERMIT; IMPOUNDMENT:

- A. It shall be unlawful for any person to own or keep an exotic animal as defined in Section 11-1-110A of this Chapter without obtaining a permit therefor or for any person whose exotic animal permit has been revoked to continue to own or keep such exotic animal. Any person violating this subsection upon conviction thereof may be punished as provided in Section 1-2-101 of this Code. In addition, the Humane Society may impound any exotic animal held in violation of this subsection.
- B. Any exotic animal impounded pursuant to this subsection A of this Section may be redeemed upon payment of the applicable redemption fee pursuant to Section 11-4-105 of this Chapter; provided, however, that no exotic animal which has been impounded may be redeemed until an exotic animal permit therefor has first been obtained. The right to redeem granted herein shall not apply to persons whose application for an exotic animal permit has been denied or whose permit has been revoked.
- C. Any exotic animal which has been impounded pursuant to this Section and which has not been redeemed within ten (10) days from the date of impoundment may be adopted by any person provided such person pays all applicable redemption fees and provided further that such person first obtains an exotic animal permit for such animal. In the event that an impounded animal is not redeemed or adopted within such time as the Director may designate, the animal may in the Director's discretion be sold or donated to a zoo or other qualified organization or may be humanely destroyed. (1980 Code)

11-1-114: NOISY PETS OR ANIMALS PROHIBITED:

- A. It shall be unlawful for any person to own or keep any pet or hoofed animal which by barking, howling, baying, yelping, crowing, crying or other utterance disturbs the peace and quiet of the neighborhood and such pet or hoofed animal is hereby declared to be a public nuisance.
- B. Upon a second conviction entered and in addition to any other penalties that may be imposed, the Court may order the owner or keeper of such pet to abate such nuisance within five (5) days. Failure to abate such nuisance within five (5) days shall be deemed a separate offense under this Section.
- C. For the purposes of this Section, "neighborhood" means the area within five hundred feet (500') of the exterior boundaries of the premises where the pet resides; "disturb" means to unreasonably annoy, perturb or interfere with the quiet enjoyment of another's premises. (Ord. 74-59; Ord. 75-103; 1968 Code §§ 11-118, 11-143.11; 1980 Code)

11-1-115: INDECENT EXHIBITION PROHIBITED: It shall be unlawful for any person to let any male pet or animal to any female pet or animal in public view. (Ord. 74-114; 1968 Code § 11-119)

11-1-116: ANIMAL FIGHTS PROHIBITED: It shall be unlawful for any person to allow or promote any fight between animals or fowl or to allow or permit any such fight in any house or upon any premises in his possession or under his control. (Ord. 74-114; 1968 Code § 11-120)

11-1-117: CRUELTY TO ANIMALS PROHIBITED:

- A. It shall be unlawful for any person:
 - 1. To overload, overwork, torture, beat, mutilate, needlessly kill or otherwise treat any animal in a cruel and inhumane manner; (Ord. 74-114; 1968 Code § 11-121)

- A)
 - 2. To fail to provide any animal owned or kept by him with adequate and proper food or drink or protection from the weather, or with adequate space, consistent with the normal requirements and habits of the animal's size, species and breed; (Ord. 75-6; 1968 Code § 11-121; 1980 Code)
 - 3. To abandon any animal; or
 - 4. To intentionally poison any animal.
- B. Where there is reasonable cause to believe that an animal is being mistreated or is suffering from malnutrition, the Humane Society may impound such animal for treatment. For the purpose of carrying out the provisions of this subsection, the duly authorized employees of the Humane Society may enter onto private property.
- C. In the event an animal is removed from private property pursuant to subsection B of this Section, a reasonable attempt shall be made to notify the owner or keeper of such animal. (Ord. 74-114; 1968 Code § 11-121; 1980 Code)

11-1-118: UNLAWFUL SALE OR DISPLAY: It shall be unlawful for any person to sell, offer for sale, barter or give away any baby chicken, rabbit, duckling or other fowl, under eight (8) weeks of age, as a pet, toy, premium or novelty or to color, dye, stain or otherwise change the color of any such baby chicken, rabbit, duckling or other fowl; provided, however, that this Section shall not be construed to prohibit the sale or display of such baby chickens, rabbits, ducklings or other fowl in proper facilities by breeders or stores engaged in the business of selling such animals for the purpose of commercial breeding and raising. (Ord. 74-114; 1968 Code § 11-122)

CHAPTER 11 REGULATION OF ANIMALS

ARTICLE 2 REGULATION OF DOGS AND CATS

SECTION:

- 11-2-101: Annual Inoculation Required for Dogs and Cats
- 11-2-102: License Required for Dogs
- 11-2-103: Dog License; Application
- 11-2-104: Dog License; Fee
- 11-2-105: License Permitted for Cats
- 11-2-106: Licenses; Expiration and Transferability
- 11-2-107: City Clerk; Authority to Designate Representative
- 11-2-108: License Tags to be Attached to Collar
- 11-2-109: License Required for Kennels
- 11-2-110: Kennel License; Application
- 11-2-111: Kennel License; Fee
- 11-2-112: Kennel License; Issuance

11-2-101: ANNUAL INOCULATION REQUIRED FOR DOGS AND CATS:

- A. It shall be the duty of every person who owns or keeps within the City any dog or cat to have such dog or cat annually inoculated with anti-rabies vaccine by a licensed veterinarian.
- B. When any dog or cat owned or kept by any person residing within the City becomes four (4) months old, the owner or keeper of such dog or cat shall have it inoculated within thirty (30) days of that date.
- C. Within thirty (30) days after a person brings a dog or cat into the City, he shall have it inoculated unless he can show proof that such dog or cat has been inoculated with anti-rabies vaccine within the previous twelve (12) months, in which case the inoculation may be omitted.
- D. It shall be unlawful for any person to fail or refuse to have his dog or cat inoculated as herein provided. (Ord. 74-114; Ord. 79-249; 1968 Code § 11-133)

11-2-102: LICENSE REQUIRED FOR DOGS:

- A. Except as provided in subsection B, it shall be unlawful for any person to own or keep any dog over the age of four (4) months without obtaining a license therefor.
- B. When any dog owned or kept by any person residing within the City becomes four (4) months old, the owner or keeper of such dog shall have it licensed within thirty (30) days of that date. (Ord. 74-114; Ord. 79-249; 1968 Code §§ 11-133, 11-134)

11-2-103: DOG LICENSE; APPLICATION: The application for a dog license shall consist of a certificate issued and signed by the veterinarian who performed the inoculation as set out in Section 11-2-101. The license receipt shall state the name and address of the owner of the dog, the name, breed and color of the dog, the inoculation certificate number issued by the veterinarian, and for a guide dog for the handicapped, the animal's identification number. Upon presentation of the inoculation certificate to the City Clerk and upon payment of the appropriate fee, a license for such dog and a tag bearing a number corresponding to that of the license shall be issued. (Ord. 76-36; 1968 Code § 11-134)

11-2-104: DOG LICENSE; FEE: The license fee shall be fifteen dollars (\$15.00) for each non-neutered male and non-spayed female dog, and for each neutered male and spayed female dog the fee shall be five dollars (\$5.00); provided, however, that no license fee shall be required for guide dogs used by the blind or partially blind, or the deaf or partially deaf. Persons sixty five (65) years of age or older shall pay a license fee of thirteen dollars (\$13.00) for each non-neutered male and non-spayed female dog and three dollars (\$3.00) for each neutered male and spayed female dog. The license for spayed or neutered dogs may be issued only upon presentation to the City Clerk of an inoculation certificate, a certificate signed by a veterinarian stating that the dog has been spayed or neutered, and payment of the appropriate fee. (Ord. 78-249; Ord. 83-318; 1968 Code § 11-134)

11-2-105: LICENSE PERMITTED FOR CATS:

Any person desiring to license a cat may do so upon payment of a fee of five dollars (\$5.00) and proof of compliance with Section 11-2-101 of this Chapter. Upon request the City Clerk shall register the cat and shall issue a license. (Ord. 78-249; 1968 Code § 11-134)

11-2-106: LICENSES; EXPIRATION AND TRANSFERABILITY:

- A. All dog licenses shall be valid for a period of one year from the date of issuance, with no credit other than that authorized in subsection C hereof to be given for a license required for less than said period. Further, the owner of any dog which will remain within the City after the date on which the license expires shall make application to the City Clerk for the issuance of a new license pursuant to Section 11-2-103 prior to the first day of the month next following the expiration of said license. Any such application received after such date shall be considered delinquent and, in addition to the basic fee established in Section 11-2-104, shall be subject to a penalty of twenty five percent (25%) of said basic fee prior to the issuance of a new license. (Ord. 75-141; Ord. 79-249; 1968 Code § 11-135)
- B. All cat licenses shall expire in accordance with the above provision except that no penalty shall be applicable when the new license is not obtained by the first day of the month following the expiration of the previous license. (Ord. 74-114; Ord. 79-249; 1968 Code § 11-135)
- C. No dog or cat license shall be transferred from one owner to another; provided, however, that the license may be transferred to another animal of the same type upon presentation of an inoculation certificate and a showing of disposition of the dog or cat previously issued the license. (Ord. 74-114; 1968 Code § 11-135)

11-2-107: CITY CLERK; AUTHORITY TO DESIGNATE REPRESENTATIVE:

The City Clerk is hereby authorized to appoint the Executive Director of the Humane Society of the Pikes Peak Region as his designated representative for the performance of any or all duties required by Sections 11-2-102 through 11-2-107, inclusive. (Ord. 79-249; 1968 Code § 11-134)

11-2-108: LICENSE TAGS TO BE ATTACHED TO COLLAR:

It shall be unlawful for any person to fail to provide a dog owned or kept by him with a suitable collar made of leather, metal or other substantial material to which shall be attached the license tag issued by the Clerk and a current rabies vaccination tag, where such dog is required to be licensed and inoculated. In the event any dog is found not wearing such collar with tags attached, the owner or keeper of such dog shall be deemed to be in violation of this Section. (Ord. 74-114; 1968 Code § 11-136; 1980 Code)

11-2-109: LICENSE REQUIRED FOR KENNELS:

It shall be unlawful for any person to keep and maintain within the City limits a kennel composed of five (5) or more dogs or five (5) or more cats, without first having obtained a license therefor from the City Clerk. For purposes of this Chapter, any person keeping in excess of four (4) dogs or four (4) cats of the age of four (4) months or more shall be deemed to be operating a kennel. A separate offense shall be deemed to have been committed for each day upon which such kennel is kept and maintained without a license therefor as herein provided. (Ord. 74-114; 1968 Code §§ 11-138, 11-140; 1980 Code)

11-2-110: KENNEL LICENSE; APPLICATION:

Every person desiring to obtain a kennel license as provided herein shall make written application therefor to the City Clerk, stating the name of the applicant and the proposed location and size of the kennel. Such application shall be accompanied by the written consent of a majority of the persons of legal age residing within four hundred feet (400') of the exterior boundaries of the premises of the proposed kennel to keep and maintain such kennel at the place stated. (Ord. 74-114; 1968 Code § 11-140; 1980 Code)

11-2-111: KENNEL LICENSE; FEE: A license to keep and maintain a kennel shall only be issued upon payment of the fee therefor in the amount of sixty dollars (\$60.00), such fee to be payable annually thereafter upon renewal. (Ord. 74-114; 1968 Code § 11-139; 1980 Code)

11-2-112: KENNEL LICENSE; ISSUANCE: The Clerk shall issue a kennel license upon compliance with the following requirements:

- A. Payment of the license fee as herein provided;
- B. Approval of the Director of Health;
- C. Compliance with all applicable zoning laws and all provisions of this Article relating to the keeping of animals generally; and
- D. Compliance with all other properly promulgated rules and regulations of the Health Department relating to the care and keeping of animals.
(Ord. 74-114; 1968 Code § 11-140; 1980 Code)

CHAPTER 11 REGULATION OF ANIMALS

ARTICLE 3 REGULATION OF HOOFED ANIMALS

SECTION:

- 11-3-101: Hoofed Animals Kept on Premises; Sanitary Requirements
- 11-3-102: Hoofed Animals Kept on Premises; Zoning Requirements
- 11-3-103: Requirements for Keeping Hoofed Animals; Failure to Comply Prohibited
- 11-3-104: Requirements for Keeping Hoofed Animals; Exception
- 11-3-105: Hardship Permit; Application
- 11-3-106: Hardship Permit; Notice of Hearing
- 11-3-107: Hardship Permit; Hearing and Determination
- 11-3-108: Hardship Permit; Revocation

11-3-101: **HOOFED ANIMALS KEPT ON PREMISES; SANITARY REQUIREMENTS:**

- A. 1. Premises within the City upon which hoofed animals are kept shall be maintained in such a condition as not to be foul, dangerous or detrimental to public health, or a breeding ground for rodents, animals or insects capable of transmitting disease to humans. Said premises shall be subject to inspection at all reasonable hours by representatives of the Health Department.
- 2. Conditions upon any premises not in compliance with this requirement are hereby declared to be a public nuisance, if so finally determined in each case by the Board of Health, and such conditions may be abated in the manner provided by Article 7 of Chapter 10 of this Code, or in any other manner as may be provided by law.
- B. Every person who occupies or controls the premises wherein hoofed animals are kept shall be responsible for the proper handling of the manure or excrement, and straw, hay, shavings, grass, weeds or leaves which have been used as bedding for such animals. Said manure or excrement and bedding as described herein shall be kept and temporarily stored at the farthest possible and reasonable point from

B) any private dwelling or natural water course and shall be removed at least once every ten (10) days to an appropriate dump or disposal area; provided, however, this Section shall not be construed to apply to manure spread as fertilizer upon cultivated ground or lawns, unless any of the conditions as set forth in subsection A hereof shall develop.

C. Drinking facilities with adequate overflow drainage to prevent continuous saturation of surrounding soil shall be provided for hoofed animals. (Ord. 74-59; 1968 Code § 11-143.3; 1980 Code)

11-3-102: **HOOFED ANIMALS KEPT ON PREMISES; ZONING REQUIREMENTS:**

- A. Hoofed animals may be kept only upon compliance with the provisions of Chapter 14 of this Code.
- B. The number of hoofed animals shall not exceed the maximum provided in Chapter 14 of this Code without a variance granted in compliance with Section 11-3-105 of this Article. No other governmental body shall have jurisdiction to grant a variance except in conformance with the aforementioned Section.
- C. The shed, shelter, pen or enclosure for hoofed animals shall not be closer than fifty feet (50') to any dwelling house, place of business or street, unless otherwise provided in Chapter 14 of this Code. (Ord. 74-59; 1968 Code § 11-143.2)

11-3-103: **REQUIREMENTS FOR KEEPING HOOFED ANIMALS; FAILURE TO COMPLY PROHIBITED:** It shall be unlawful for any person to keep any hoofed animal within the City except in compliance with the foregoing requirements, as set out in Sections 11-3-101 and 11-3-102 of this Article. (Ord. 74-59; 1968 Code § 11-143.4)

11-3-104: REQUIREMENTS FOR KEEPING HOOFED ANIMALS; EXCEPTION:

The provisions of this Article shall not be applicable to any person engaged in operating a packing house or slaughter house governed by Colorado Health Department regulations, nor to any person keeping hoofed animals for a temporary period of time, not to exceed seventy two (72) hours, in connection with the operation of such business. (Ord. 74-59; 1968 Code § 11-143.5; 1980 Code)

11-3-105: HARDSHIP PERMIT; APPLICATION:

A. A hardship permit may be granted by the Director of Health if he finds that the strict application of the provisions of Section 11-3-102 of this Article will constitute an unnecessary hardship upon the applicant, and that the issuance of such permit will not jeopardize the health, peace or welfare of neighbors of the applicant. Such permit may allow the keeping of a greater number of hoofed animals than otherwise permitted, or the keeping of hoofed animals otherwise prohibited, or the keeping of hoofed animals under conditions other than those required.

B. Any person who desires to obtain a hardship permit shall file a written application with the City Clerk, which application shall be forwarded to the Health Department and the Regional Building Department. Such application shall contain the following information:

1. The name of the person to whom the permit is to be issued;
2. The location of the premises upon which the animals are to be located and the number of such animals to be maintained;
3. A brief statement of facts which the applicant feels warrant the issuance of such permit;
4. The signature of the applicant and the date of application. (Ord. 74-59; 1968 Code § 11-143.6; 1980 Code)

11-3-106: HARDSHIP PERMIT; NOTICE OF HEARING: Within thirty (30) days of receipt of an application for a hardship permit, the Director of Health or the City Clerk shall cause

written notice of a hearing to be sent to the applicant, to all landowners and occupants within four hundred feet (400') of the exterior boundaries of the applicant's property, and to the Regional Building Official. Service of such notice shall be complete upon the deposit of said notice in the United States mail, postage prepaid. Additionally, notice shall be published in the official newspaper of the City¹ at least once five (5) days prior to the hearing. (Ord. 74-59; 1968 Code § 11-143.6; 1980 Code)

11-3-107: HARDSHIP PERMIT; HEARING AND DETERMINATION:

A. At such hearing the applicant and any neighbors of the applicant may state reasons either for or against issuance of said hardship permit. Within ten (10) days of the hearing the Director of Health shall make a determination whether to approve or deny the application and shall cause written notice of the same to be mailed to the applicant and any neighbors who attended the hearing. Such notice shall:

1. Include a brief statement of the reason why the application is being approved or denied;
2. Specify any conditions upon which the permit is being issued.

B. Any applicant or neighbor adversely affected by the decision of the Director may, within twenty (20) days from the issuance of the determination, appeal for a rehearing before the City Council. (Ord. 74-59; 1968 Code § 11-143.6; 1980 Code)

11-3-108: HARDSHIP PERMIT; REVOCATION:

The Director of Health may make inspections of areas granted a hardship permit, and upon determination that conditions exist which jeopardize the health, peace or welfare of neighbors of the applicant, may revoke said permit. The permittee may, within fifteen (15) days of notice of revocation, request the Director to hold a hearing in conformance with Sections 11-3-106 and 11-3-107 of this Article. Nothing in this Section shall preclude a permittee's right of appeal from an adverse decision by the Director. (Ord. 74-59; 1968 Code § 11-143.6; 1980 Code)

¹. See Section 1-1-601 of this Code.

CHAPTER 11 REGULATION OF ANIMALS

ARTICLE 4 IMPOUNDMENT, REDEMPTION AND DISPOSAL OF ANIMALS

SECTION:

- 11-4-101: Impoundment
- 11-4-102: Duty to Impound
- 11-4-103: Unlawful Taking or Release
- 11-4-104: Hindering Humane Officer Prohibited
- 11-4-105: Redemption; Animals Other Than Hoofed Animals
- 11-4-106: Redemption; Hoofed Animals
- 11-4-107: Unredeemed Animals; Disposition
- 11-4-108: Dead Animals; Removal
- 11-4-109: Dead Animals; Leaving in Public Places Prohibited
- 11-4-110: Dead Animals; Burial Within City Prohibited

11-4-101: **IMPOUNDMENT:** Any animal found at any place within the City other than upon the premises of its owner or keeper, and not under direct physical control as provided elsewhere herein, may be picked up and impounded in the shelter as provided in Section 11-4-102 of this Article. The foregoing shall apply regardless of whether or not said animal shall have identification, and whether or not the owner or keeper of such animal shall be readily ascertainable. (Ord. 74-59; Ord. 74-114; 1968 Code §§ 11-144.2, 11-124; 1980 Code)

11-4-102: DUTY TO IMPOUND:

- A. It shall be the duty of the duly authorized employees of the Humane Society to take up any animal trespassing or running at large contrary to the provisions of this Chapter. For the purpose of performing such duty, any such employee may enter onto private property in pursuit of any animal trespassing or running at large. Any animal picked up pursuant to the provisions of this Section shall be delivered to the shelter, where such animal shall be received and safely kept therein until redeemed or disposed of as provided by law. (Ord. 74-59; 1968 Code § 11-144.4; 1980 Code)
- B. In the event an animal is picked up by any person other than a duly authorized employee of the Humane Society, it shall be the duty of

- B) such person to notify the Humane Society within a reasonable time after such action, or to deliver the same to the shelter, where such animal shall be received and safely kept therein until redeemed or disposed of as provided by law. (1980 Code)

11-4-103: UNLAWFUL TAKING OR RELEASE:

- A. It shall be unlawful for any person to take and deliver to the shelter any animal from any enclosed lot or premises, or from any stable or other building unless given permission by the owner of said animal or as otherwise authorized by this Chapter.
- B. It shall be unlawful for any person to open or cause to be opened any enclosed lot or premises thereby allowing any animal to run at large upon the streets, sidewalks, alleys, parks or other public places of the City. (Ord. 74-59; Ord. 74-114; 1968 Code § 11-144.7)

11-4-104: **HINDERING HUMANE OFFICER PROHIBITED:** It shall be unlawful for any person to hinder, impede or obstruct any Humane Officer in the performance of his duties. (1980 Code)

11-4-105: REDEMPTION; ANIMALS OTHER THAN HOOFED ANIMALS:

- A. The redemption fee payable by the owner or keeper of any animal, other than a hoofed animal, impounded for a period of five (5) days or less shall be twenty five dollars (\$25.00), and for a period of impoundment in excess of five (5) days, the fee shall include an additional charge for board of two dollars fifty cents (\$2.50) per day or any part thereof in excess of five (5) days.
- B. Payment of impounding fees shall not be in lieu of any fine, penalty or license fee.
- C. No pet or animal required to be licensed or inoculated under Sections 11-2-101 and

- C) 11-2-102 may be redeemed until provision for such licensing and inoculation shall have been accomplished. (Ord. 79-12; Ord. 83-318; Ord. 85-21; 1968 Code § 11-125; 1980 Code)

11-4-106: REDEMPTION; HOOFED ANIMALS:

The redemption fee payable by the owner or keeper for a hoofed animal impounded for a period of ten (10) days or less shall be twenty five dollars (\$25.00) and an additional charge for board of two dollars (\$2.00) per day or any part thereof, commencing with the first day of impoundment. Payment of impounding fees shall not be in lieu of any fine, penalty or license fee. (Ord. 74-59; 1968 Code § 11-144.3; 1980 Code)

11-4-107: UNREDEEMED ANIMALS; DISPOSITION:

- A. Any owner or keeper of a pet who does not claim and redeem such pet within the said five (5) day impounding period, shall forfeit all right, title and interest therein. Any pet not redeemed within five (5) days from the time of such impounding, may at once be put up for adoption in accordance with the normal procedure of the Humane Society. Any pet which has been impounded for five (5) days and has not been redeemed or adopted as herein provided may be humanely destroyed and thereafter cremated, or removed from the City and buried.
- B. No pet shall be put up for adoption or destroyed, if the identity and whereabouts of the owner of such pet can be readily ascertained from a rabies vaccination tag, license tag or other identification tag worn by the pet, until a reasonable effort has been made to notify the owner. (Ord. 74-114; 1968 Code § 11-127; 1980 Code)
- C. Disposition of unredeemed hoofed animals shall be in accordance with section 35-44-101 et seq. CRS 1973, as the same may be now or hereafter amended. (Ord. 74-59; 1968 Code § 11-144.5; 1980 Code)

11-4-108: DEAD ANIMALS; REMOVAL: The City shall provide, by contract or otherwise, for the removal and disposition of carcasses from the streets, avenues, alleys and other public places of the City. (Ord. 74-59; Ord. 74-114; 1968 Code §§ 11-131, 11-144.9)

11-4-109: DEAD ANIMALS; LEAVING IN PUBLIC PLACES PROHIBITED:

It shall be unlawful for any person to throw or place any dead or injured pet, animal or fowl or part thereof, in or upon any of the streets, alleys or other public places within or belonging to the City. (Ord. 74-59; Ord. 74-114; 1968 Code §§ 11-130, 11-144.8)

11-4-110: DEAD ANIMALS; BURIAL WITHIN CITY PROHIBITED:

It shall be unlawful for any person to bury or cause to be buried within the City any dead animal. Any person having in his possession or upon his premises any dead animal shall at once remove such animal from the City or cause the same to be destroyed. The carcass of any dead animal shall be disposed of at the expense of the person having the same in his possession or upon his premises, and any such disposal shall be in accordance with the applicable regulations of the Health Department. (Ord. 74-59; Ord. 74-114; 1968 Code §§ 11-132, 11-144.10; 1980 Code)

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CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 1 GENERAL PROVISIONS

PART 1 DEFINITIONS

SECTION:

12-1-101: Definitions

12-1-101: **DEFINITIONS:**¹ Unless the context specifically indicates otherwise, the following terms, as used in this Chapter, shall have the meanings hereinafter designated:

- A. CHAPTER or THIS CHAPTER Means Chapter 12 of the Code of the City of Colorado Springs.
- B. CITY means the City of Colorado Springs, Colorado.
- C. DEPARTMENT OF UTILITIES or DEPARTMENT means the Department of Utilities of the City of Colorado Springs.
- D. DIRECTOR OF UTILITIES or DIRECTOR means the Director of the Department of Utilities of the City of Colorado Springs, or his designated representative.
- E. PERSON means any individual, firm, company, partnership, corporation, association, group or society and includes the United States and the State of Colorado and agencies, districts, commissions and political subdivisions created by or pursuant to State or Federal law.
- F. PREMISES means a lot, parcel of land, building or establishment.
- G. PUC means the Public Utilities Commission of the State of Colorado as established by and organized and operated pursuant to Title 40 of the Colorado Revised Statutes 1973, as the same may be now or hereafter amended.
- H. USER means any person who uses, takes service from, or is connected to the utility supply system of the City.
 - 1. COMMERCIAL USER means any person whose use of the utility supply system of the City is in connection with the operation of a
 - H,1) business, trade or occupation, whether or not for profit. Such persons shall include, but shall not be limited to, clubs, fraternities, sororities, lodges, hotels, apartment and rooming houses, tourist camps and cottages, multi-family dwellings where more than one dwelling unit is served through one meter, schools, governmental buildings and churches.
 - 2. COMMERCIAL USER for the purposes of billing for wastewater service, means any user of the wastewater system who is not a residential user or an industrial user.²
 - 3. RESIDENTIAL USER means any person whose use of the utility supply system of the City is exclusively for domestic purposes in a private home or individual dwelling unit where not more than one dwelling unit is served through one meter.
 - I. UTILITY means electrical systems, natural gas systems, water systems, wastewater systems and such other systems designated by Council, including the acquisition, erection, construction, operation or maintenance by the City thereof.
 - J. UTILITY SUPPLY SYSTEM or UTILITY SYSTEM means:
 - 1. Any and all rights, property and obligations of the City concerning utilities;
 - 2. Any and all devices, facilities, structures, equipment or works owned or used by the City for the purpose of supplying utility service;
 - 3. Any and all standby or contingency equipment, facilities or material which may be necessary to provide reliable utility service;
 - 4. Any and all land or sites owned or used by the City for the purpose of providing utility services to users; and
 - 5. Any and all extensions, improvements, additions, alterations or remodeling thereof. (Ord. 80-148)

1. For definitions of general application, see Section 1-1-203 of this Code.

2. For definition of "industrial", see Section 12-5-201A12 of this Code.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 1 GENERAL PROVISIONS

PART 2 THE DEPARTMENT

SECTION:

- 12-1-201: Divisions
 12-1-202: Administration
 12-1-203: Rules and Regulations

12-1-201: **DIVISIONS:** The Department of Utilities shall include the Electric Division, the Gas Division, the Water Division and the Wastewater Division. Each division shall, as far as practicable, be administered as an entity.¹ All revenues of each division shall be placed in the Department of Utilities Gross Income Fund, from which all operating and maintenance expenses shall be deducted. (Ord. 2697; Ord. 80-148; 1968 Code d§ 9-1)

12-1-202: ADMINISTRATION:

- A. There is hereby created the office of Director of the Department of Utilities. The Director shall be appointed by the City Manager and shall be the chief administrative officer of the Department. The Director shall administer the Department of Utilities and supervise its operations, subject to the control of the City Manager.
- B. Each division of the Department of Utilities shall be administered and operated by a manager(s), who shall be appointed by the City Manager or his designated representative.² Each manager shall perform such functions and possess such powers, duties and responsibilities as may be designated by the Director or provided elsewhere in this Chapter. (Ord. 2697; Ord. 80-148; 1968 Code § 9-5)

12-1-203: RULES AND REGULATIONS:

- A. Each manager shall adopt rules and regulations consistent with the provisions of this Chapter for the administration of his respective division.

- A) Such rules and regulations shall be subject to approval by the City Council, and upon adoption and approval shall be filed with the City Clerk. Such rules and regulations may be inspected by any person at any time during regular business hours, and copies thereof may be purchased by any person upon payment of the cost of reproduction.
- B. It shall be unlawful for any person to violate the rules and regulations officially issued by the manager of any division, approved by the City Council and filed with the City Clerk. If any person is convicted of a violation of such official rules and regulations, punishment shall be as provided in Part 4 of this Article. (Ord. 80-148)

1. Ed. Note: For authority to establish such divisions, see Article VI, § 32(a) of the Charter of the City.

2. Ed. Note: The Director of Utilities has been designated the "appointing authority" for the Department of Utilities. See the City Manager's memorandum of May 2, 1979.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 1 GENERAL PROVISIONS

PART 3 DETERMINATION AND COLLECTION OF CHARGES

SECTION:

- 12-1-301: Applicability
- 12-1-302: User Charges
- 12-1-303: Violation of Ordinances or Department Regulations, Remedies of the City
- 12-1-304: Collection of Charges, Remedies
- 12-1-305: Deposits
- 12-1-306: Budget Billing Plan; Residential
- 12-1-307: Bad Check Charge
- 12-1-308: Dispute Resolution Procedure

12-1-301: **APPLICABILITY:** Unless indicated otherwise, the provisions of this Part 3 shall be equally applicable to each and every division of the Department of Utilities. (Ord 80-148)

12-1-302: USER CHARGES:

- A. The City Council hereby finds, determines and declares that it is necessary and conducive to the protection of the public health, safety, welfare and convenience to impose and collect user charges for the use of the utility supply system of the City.
- B. Each user of the utility supply system of the City shall pay a monthly user charge for the use of said system, payable in the manner and amount determined as hereinafter provided.
 - 1. Such monthly user charge may include amounts due from a past billing period arising from events whether or not under the control of the Department, including but not limited to meter malfunctions, billing errors, meter reading errors or failure to read a meter.
 - 2. The user shall be permitted to make installment payments if any amounts from a past billing period are included in the monthly user charge; provided, however, that if such amount is the result of a failure to read the meter, which

B,2) failure is due to instances in which the meter is not readily accessible or in which the user refuses to read his own meter, the user may not be permitted to make installment payments. Any installment payments made pursuant to this subsection may extend over a period equal in length to the period during which the errors were accumulated and shall bear no interest.

- C. The user charges levied pursuant to this Chapter shall be determined and collected by the Department of Utilities, and such charges shall be due and payable at the Department of Utilities before the tenth day after such billing.
- D. The Director shall make and enforce such rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges. (Ord. 80-148)

12-1-303: VIOLATION OF ORDINANCES OR DEPARTMENT REGULATIONS, REMEDIES OF THE CITY:

- A. In the event that a customer violates an ordinance or regulation concerning utility service, service may be discontinued upon giving ten (10) days' prior written notice of discontinuance, unless a hazardous condition exists, in which event service may be discontinued without prior notice. If the violation concerns a particular utility service, only that service may be discontinued.
- B. Notification required by this Section as a condition precedent to disconnection or discontinuance of service shall include the following:
 - 1. A statement describing the ordinance or regulation that is being violated.
 - 2. Where applicable, a statement that disconnection or discontinuance of service may be avoided by correction of the violation.

- B) 3. A statement that a procedure is available within the Department of Utilities to resolve disputes concerning violation of Department regulations. Such statement shall state how the customer may contact the Department to resolve any such dispute by telephone, in person, or by letter. (Ord. 83-223)

12-1-304: COLLECTION OF CHARGES, REMEDIES:

- A. The Department of Utilities shall determine the amount due and payable from each person for charges imposed by this Chapter and shall make an initial demand for payment from each such person. All charges not paid within ten (10) days after the mailing of a demand for payment pursuant to a hearing, or within ten (10) days after the mailing of a demand for payment where no hearing was requested, shall be deemed delinquent and the City may thereupon take any action as provided hereinafter.
- B. In the event that charges imposed by this Chapter are not paid when due, the City may recover such charges in an action at law against the delinquent party.
- C. 1. In the event that the user charges imposed by this Chapter for electric, gas, water or wastewater service are not paid when due, any one or all services furnished the delinquent customer may be discontinued upon giving notice of discontinuance of service as provided in the Department's regulations and subsection C3 of this Section.
2. In the event that charges imposed against any commercial/industrial user by Article 5 of this Chapter are not paid when due, the connection of such commercial/industrial user to the wastewater treatment system may be severed. As a condition precedent to such disconnection, the Department of Utilities shall notify such commercial/industrial user of the proposed disconnection as provided in the Departments' regulations and subsection C3 of this Section.
3. Discontinuance and Reconnection of Service:
- a. Discontinuance of Service: The Colorado Springs Department of Utilities may not discontinue the service of any customer for

- C3a) violation of the Code of the City or for nonpayment of any sum due for utility service, deposits, or other tariff charges, except as herein provided.

b. Requirement for Written Notice:

(1) Written notice of proposed discontinuance of service must be mailed by first class mail, or delivered at least ten (10) days in advance of the proposed date, advising the customer that service will be discontinued, the amount past due, and the date the past due amount shall be paid to avoid discontinuance.

(2) A notice of discontinuance shall be conspicuous in nature and in easily understood language. The heading of the notice shall contain, at a minimum, the following warning written in English:

THIS IS A FINAL NOTICE OF DISCONTINUANCE OF SERVICE.

The heading shall also contain the same warning written in Spanish, with an additional sentence at the end of the warning stating in Spanish:

IF YOU DO NOT READ ENGLISH, YOU SHOULD REQUEST SOMEONE WHO UNDERSTANDS SPANISH AND ENGLISH TO TRANSLATE THIS NOTICE FOR YOU.

(3) At a minimum, said notice shall advise the customer:

(a) That he may contact the Department of Utilities by telephone, in person, or by letter for more information or to request a hearing. Collect calls will be accepted from customers living outside our service area.

(b) That a residential customer may avoid discontinuance of service by doing one of the following before the discontinuance date:

- A. Paying the total amount due on the notice,
- B. Making arrangements for a payment plan,
- C. Providing an appropriate medical certificate.

C3b3b) (cont.)

Also, a hearing may be provided to resolve any dispute concerning the discontinuance of utility service if the request is made before the discontinuance date.

(c) Of major Federal, State or local government agencies, known to the utility, which provide customer assistance or benefits relating to utility service (unintentional error, by omission or incorrectness, in providing such information shall not render the notice void).

c. Third Party Notification: In the event the customer has previously executed a third party notification form indicating a third party to whom notices of discontinuance are to be sent, written notice also shall be mailed by first class mail or delivered at least ten (10) days in advance of the proposed discontinuance date to said third party. The utility shall furnish a third party notification form to each new residential customer. Moreover, the utility shall inform its residential customers at least annually of the availability of the third party notification form and a method for obtaining a copy of the form. The customer, at his option, may mail or deliver to the utility such third party notification form, which form shall be signed by both the customer and the third party (or their legal representatives) to be notified in the event of possible discontinuance of service. Said third party notification form shall be substantially in the following format:

Name of Customer
Street Address of Customer
City, State, Zip Code
Telephone Number
Account Number

Third party to be notified in the event of possible discontinuance of service:

Name
Street Address
City, State, Zip Code
Telephone Number
Relationship to Customer
Signature of Customer _____
Signature of Third Party _____
Date _____

d. Diversion: Noticing requirements shall not apply and utility service may be discontinued without notice if bypassing, tampering or unauthorized metering exists as defined in the Code of the City.

C3) e. The Foregoing Requirements for Notice to Customers may be Waived when:

(1) In the opinion of the utility, an immediate discontinuance of service to the premises is imperative for reasons of safety. Such reasons might include, but are not restricted to, a condition or installation involving any part of the customer's or the utility's lines, pipes, apparatus or appliances found to be dangerous to life, health or safety of any person, or which may result in damage to property.

(2) Discontinuance is ordered by any properly constituted governmental authority due to alleged violations of the ordinances, resolutions, statutes, or regulations applicable to the service. The utility shall not be responsible for ascertaining such conditions.

(3) Service, having been discontinued in accordance with this subsection, is restored by someone other than authorized utility personnel.

f. Multi-Unit Dwellings:

(1) In situations involving multi-unit dwellings known by the Department of Utilities to exist, where the utility service is recorded on master meters, the Department of Utilities, at least thirty (30) days prior to the proposed date of discontinuance, shall make every reasonable effort to deliver or mail a written notice to each individual unit advising that a notice of discontinuance has been sent to the party responsible for payment of utility bills. In addition, a notice to the occupants shall be posted, to the extent possible, in at least one of the common areas of the multi-unit dwelling. Said notice shall state that the occupants of the dwelling units may avoid discontinuance by paying the next regular bill, exclusive of all arrears, in full with cash or certified funds within thirty (30) days of its issuance and successive bills within thirty (30) days of issuance and how to contact the utility for additional information or to make arrangements to receive a copy of future bills.

(2) Service may not be discontinued if the party responsible for payment pays the amount on the notice or if the occupants pay each future bill within thirty (30) days of issuance.

C3f) (3) Occupants shall not be entitled to installment payments or any payment plan other than paying each bill in full within thirty (30) days of issuance to avoid discontinuance.

(4) Service may be discontinued, without further notice or attempt at personal contact for failure of the occupants to pay each bill within thirty (30) days of issuance.

g. Discontinuance for Nonpayment: Except as provided in paragraph (e) of this subsection, a customer's service shall not be discontinued for nonpayment:

(1) Of any sum which has not appeared on a notice of discontinuance. The discontinuance date must be specifically indicated on the notice and shall be no earlier than ten (10) days subsequent to the mailing or delivery of the notice.

(2) Of any sum which is less than thirty (30) days past due, except for deposits or other extenuating circumstances.

(3) Of any amount due on any other account on which the customer was not a user or applicant, unless the customer obtained service through subterfuge.

(4) Of any sum due from a previous occupant of the premises who was a customer. However, the Department of Utilities may decline to continue to furnish service at the same premises if it is apparent the service is being obtained by subterfuge in any manner.

(5) Of any indebtedness except as incurred for services rendered by the Department of Utilities within the Department's service area.

(6) Between twelve o'clock (12:00) noon on Friday and eight o'clock (8:00) A.M. the following Monday, or between twelve o'clock (12:00) noon on the day prior to and eight o'clock (8:00) A.M. on the day following any holiday observed by the Department of Utilities.

(7) Until the Department of Utilities has made a reasonable effort to advise of the proposed discontinuance in person.

C3g) (8) If the full amount shown on a notice is paid. Payments must be received in the Department of Utilities' business office during normal business hours or by a utility employee authorized to receive payment.

(9) If, on or before the expiration date of a notice of discontinuance, the customer makes acceptable arrangements.

(10) If a residential customer presents a medical certificate, as herein provided.

h. Restoration of Service: Service must be restored within twelve (12) hours (unless extenuating circumstances prevent restoration) after the customer satisfies any one of the following provisions:

(1) Pays, in full, the amount shown on a notice of discontinuance and any reconnection charges (provided elsewhere in the Code of the City).

(2) Makes acceptable payment arrangements.

(3) Presents a medical certification as herein provided.

(4) Notifies the Department of Utilities, and such information is confirmed, that the cause of discontinuance has been corrected.

i. Safety and Health; Nondiscontinuance or Restoration:

(1) Medical Certificate: A medical certificate is a document signed by a physician licensed by the State of Colorado stating that discontinuance of service would be especially dangerous to the health or safety of the residential customer, or a permanent resident of the customer's household, or that it would create a medical emergency. In the event a medical certificate is received by the Residential Accounts Section of the Department of Utilities, service may not be discontinued, or if already discontinued must be restored. The period of nondiscontinuance of service shall be effective for sixty (60) days from the date of said medical certificate. One thirty (30) day extension of service may be effected by receipt of a second medical certificate

- C3i1) in the Residential Accounts Section of the Department of Utilities prior to the expiration of the initial sixty (60) day period. A maximum of ninety (90) days per household will be granted in any consecutive twelve (12) month period, said period to begin on the date the first medical certificate is presented.

(2) A customer who invokes this Section may request a payment arrangement on or before the last day covered by a medical certificate or extension thereof. A customer who already has entered a payment arrangement and who has not broken arrangements prior to invoking this Section may renegotiate the payment arrangement to include any installments missed during the certification period. Renegotiation must occur on or before the last day covered by a medical certificate or extension thereof. A customer who has entered a payment arrangement but has broken arrangements prior to invoking this Section must pay, on or before the last day covered by the medical certificate or extension thereof, all amounts that would have been paid up to that date had arrangements not been broken, and resume the payment arrangement in order to avoid discontinuance of service.

j. Reconnection of Service: A charge of fifteen dollars (\$15.00) will be made for the reconnection of each meter.

- D. 1. Until paid, all charges imposed by Part 6 of Article 4 of this Chapter (Water Code) and Part 6 of Article 5 of this Chapter (Wastewater Treatment Code), shall constitute a perpetual lien on and against the property connected to or served by the water system and the wastewater treatment system of the City, respectively, which may be recorded against the property at any time thereafter, and shall be chargeable against the owner of the property at the time of use of the service or the owner's successors in interest to the property. In the event that any charge imposed by this Chapter shall not be paid when due, the Director may issue a notice to the owner of the property or the user or both, setting forth the amount of the charge due and payable, identifying the property connected to the water or wastewater system for which the charge is delinquent and stating that the City claims a perpetual lien on and against said property for the unpaid charge. Such notice shall

- D) be verified by the Director and filed with the clerk and recorder of the county in which said property is located. Until paid, such charge shall constitute a perpetual lien on and against the property served, and such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanic's liens.

2. In the event that any user charge imposed by this Chapter for water or wastewater service shall not be paid when due, the Director may issue a notice to the owner of the property or the user or both, setting forth the amount of the charge due and payable and identifying the property connected to or using the water or wastewater system for which the charge is delinquent. Such notice shall be verified by the Director and filed with the City Clerk. The City Clerk shall certify the charge to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as taxes with a ten percent (10%) penalty thereon to defray the costs of collection. All laws of the State of Colorado for the assessment and collection of general taxes and the redemption of same shall apply to said charges.

- E. The remedies of the City as set forth in this Section shall be cumulative and not alternative and the City may pursue any such remedy either singly or in combination as it may deem necessary and appropriate. (Ord. 79-10; Ord. 80-148; Ord. 83-223; Ord. 84-122; 1968 Code § 9-14-1202)

12-1-305: DEPOSITS:

- A. Subject to the provisions of this Section, the Department of Utilities may require a deposit from a user of the utility system of the City as a guarantee of payment of current user charges. Such deposit shall be in an amount not to exceed the estimated charges of such user for a ninety (90) day period.
- B. The Department of Utilities shall not require a deposit pursuant to this Section from a residential user unless such user has a payment record with the Department of Utilities which includes recent and/or substantial delinquencies. Any such deposit from a residential user shall be refunded in full upon satisfactory payment of charges for an uninterrupted twelve (12) month period.

- C. The Department of Utilities shall require a deposit pursuant to this Section from all commercial users. Any such deposit from a commercial user shall be refunded in full upon satisfactory payment of charges for a minimum three (3) year uninterrupted period.
- D. Any deposit required and made pursuant to this Section for electric, natural gas, water or wastewater service shall accrue simple interest at a rate and under the terms and conditions as determined by the City Council.
- E. Interest paid on any deposit required and made pursuant to this Section shall be earned for the time such deposit is held by the Department of Utilities, and shall be calculated from the date the deposit is received by the Department to the date the deposit is returned to the user, either in cash or by credit to the user's account. Payment of interest shall be made upon return of the deposit or annually upon request of the user, and at the option of the Department may be made in cash or by a credit to the user's account.
- F. No deposit required and made pursuant to this Section shall relieve any user from payment of current user charges as they become due and payable, nor shall any such deposit be applied by the Department of Utilities to any indebtedness of the user except for utility charges due or past due after termination of service. (Ord. 78-206; Ord. 80-148; Ord. 83-223; 1968 Code § 9-14-1401)

**12-1-306: BUDGET BILLING PLAN;
RESIDENTIAL:**

- A. Residential customer may, at their option, elect to pay future monthly bills on the Department's budget billing plan.
- B. Any residential customer electing the budget billing plan shall be on the plan for all utility services purchased from the Department and will pay a total monthly amount for the service address as follows:
 - 1. A monthly amount (rounded to the nearest dollar) equal to one-eleventh ($\frac{1}{11}$) of the total of the most recent twelve (12) months' consumption data (any unavailable consumption data required will be estimated by the Department) calculated at the rates in effect at the time of application; and

- B)
 - 2. A monthly amount (rounded to the nearest dollar) equal to one-twelfth ($\frac{1}{12}$) of any unpaid balance which has previously been billed including current bills, amounts past due, collection fees, miscellaneous service charges, short check charges, amounts transferred from other accounts, bad debts, or other fees (excluding deposits and amount due as a result of bypassing, tampering or unauthorized metering) as provided for in the City's ordinances, resolutions and tariffs; and,
 - 3. For successive budget billing years, a monthly amount (rounded to the nearest dollar) equal to one-twelfth ($\frac{1}{12}$) of the difference between the total of the twelve (12) months' budget billing and the actual billings for the previous budget billing year. If this difference is a credit, it will be applied to the next year's budget bills unless the customer requests the Department to refund the credit by issuing a check.
- C. The first budget bill payment is due on the due date of the first bill issued by the Department after the customer has elected to use the budget billing plan.
- D. The customer will continue on the budget billing plan for the succeeding year unless the Department is notified that the customer wishes to return to the regular billing procedure.
- E. If a customer on the budget billing plan fails to pay the budget billing obligation by the due date, the Department's normal collection and termination procedures will be applicable.
- F. If a customer on the budget billing plan terminates service in less than twelve (12) months, the entire outstanding amount of the account for actual consumption and/or delinquencies shall be due and payable on the due date of the final bill. A credit balance shall be refunded or transferred to another account.
- G. The Department may adjust the monthly budget billing amount because of changes in its base rates and for unusual gas cost changes from the Department's gas supplier authorized by the appropriate regulatory agency. Gas cost changes shall be considered unusual when such changes would result in a ten percent (10%) or more increase or decrease in customer's anticipated annual billing for gas service. The monthly budget billing amount will not be adjusted for changes in the fuel cost adjustment (FCA). The monthly budget billing amount may

- G) also be adjusted due to changes in consumption patterns, service conditions or by mutual agreement between the customer and Department. (Ord. 84-122)

12-1-307: BAD CHECK CHARGE: The Department will assess a charge of seven dollars (\$7.00) for each bad check received. (Ord. 84-122)

12-1-308: DISPUTE RESOLUTION PROCEDURE:

- A. Any user's or customer's dispute concerning any utility matter, including without limitation, billing errors and omissions, termination of service, line extensions, or violations of regulations, may be reviewed and determined by the following procedure:

1. Informal Hearing by Division Manager.

(a) Any user or customer of the utility who wishes to dispute an action of the Department of Utilities concerning the customer's utility service or proposed utility service may request an informal hearing to resolve the dispute. The matter shall be informally heard and determined by the manager of the appropriate division of the Department of Utilities or by the Director's designee within three (3) working days of the request unless the time is extended by the manager for good cause. The managers of each division are authorized to establish procedural regulations governing the informal hearing process.

(b) If the user or customer is not satisfied with the results of the informal hearing, he may file a written request for review of the disputed decision with the manager of the appropriate division of the Department of Utilities or his designee within two (2) working days of the decision unless the time is extended by the manager for good cause.

2. Review of Manager's Decision. The written request for review of the disputed decision shall be referred to the Director of Utilities; who may assign the matter to a hearing officer for a formal hearing, determine it himself or refer it to City Council.

3. Formal Hearing Procedure. If a dispute is assigned by the Director to a hearing officer, a

- A3) formal hearing shall be conducted by the hearing officer, who shall be an employee or other representative of the Utilities Department to hear such disputes. The hearing officer shall be a person who had no previous involvement with the user's or customer's dispute. The formal hearing shall be conducted as follows:

(a) The formal hearing shall be held within five (5) working days of the customer's written request, unless the time is extended as necessary to meet the Department's or customer's scheduling needs.

(b) During the formal hearing, the customer shall have the right to present testimony or evidence concerning any matter relevant to the disputed decision and to cross-examine witnesses. The Department shall have the right to present any matter relevant to the disputed decision and to cross examine witnesses. The customer and the Department may be represented by an attorney. A tape recording of the proceeding shall be kept. A copy of the recording or a transcription of it shall be available to the customer upon payment of the cost of reproduction or transcription. The customer shall be required to make a deposit of the estimated costs in advance.

(c) At the conclusion of the formal hearing, the hearing officer may announce his decision or inform the parties that he will render a written decision within ten (10) working days. The hearing officer shall determine whether the disputed decision was in accordance with the Utilities Department's controlling rates, policies and regulations.

(d) The burden of proof shall be on the Department to establish that the disputed decision is consistent with the rates, policies and regulations of the Department.

A,3) (e) If the hearing officer determines that the Department has acted properly with respect to the disputed decision, the hearing officer shall advise the customer of the customer's right to request an appeal to the City Council to reverse the hearing officer's decision in accordance with subparagraph (f) of this Section.

(f) Appeals on matters determined by the hearing officer shall be made to the Director of Utilities, who shall refer the request to appeal to the City Manager to place the matter on the City Council agenda, unless the appeal appears to be groundless or frivolous or taken for the sole purpose of delay. The customer must make a written request to appeal to City Council within five (5) working days of the decision of the hearing officer. Requests to appeal which are late shall be deemed void and shall not be considered.

4. Dispute Resolution by the Director of Utilities. Resolution of disputes to be determined by the Director of Utilities shall be as follows:

(a) Disputes to be determined by the Director of Utilities shall be heard informally within five (5) working days of the receipt of the customer's written request for review of the disputed decision, unless the time is extended by the Director for good cause.

(b) The customer may present relevant evidence or testimony concerning the disputed decision. The customer may be represented by an attorney and may cross-examine witnesses. The person who made the disputed decision for the Department may present relevant evidence or testimony, may be represented by an attorney and may cross-examine witnesses. A tape recording of the proceeding shall be kept.

(c) The Director shall make a written determination of the dispute within ten (10) working days.

(d) If the customer is not satisfied with the decision of the Director, he may request an appeal to the City Council. The customer must make a written request to appeal the decision to the Director within five (5) working days of the Director's decision. The Director shall refer the request to appeal to the City Manager to place the matter on the City Council agenda, unless the appeal appears to be groundless, frivolous or taken for the sole purpose of delay.

A) 5. Review by the City Council.

(a) On a customer's appeal to the City Council from a decision of the hearing officer or on appeal from the decision of the Director, unless the City Council determines otherwise, the City Council shall make its determination from a review of the record. All other cases are subject to a public hearing to determine the appeal.

(b) The decision of the Council shall be final.

B. Except as provided in this Chapter, or in the case of a hazardous condition, during the pendency of the informal hearing process regarding any dispute of any utility matter, the customer's service shall not be terminated, and the status quo shall be maintained pending determination of the informal hearing.

C. Except as provided in this Chapter, or in the case of hazardous condition, during the pendency of a customer's appeal of any dispute of any utility matter, after the initial informal hearing, where the customer's service has been or will be terminated, the customer's service shall be continued (1) in the case of nonpayment for service, if the customer deposits with the Department the amount claimed to be due, or (2) in the case of violation of a rate, ordinance, regulation, law, or statute, if the customer complies with the rate, regulation, ordinance, law or statute pending the appeal.

D. The Department may adopt necessary rules and regulations further defining this dispute resolution procedure not inconsistent with the provisions of this Section. (Ord. 83-223)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 1 GENERAL PROVISIONS

PART 4 ENFORCEMENT AND PENALTY

SECTION:

- 12-1-401: Applicability
 12-1-402: Legal Action
 12-1-403: Penalty

performance or failure to perform is declared in any provision of this Chapter to be unlawful, shall be fined and/or imprisoned as provided in Section 1-2-101 of this Code. A separate and distinct offense shall be deemed to have been committed for each day on which violation shall occur or continue. (Ord. 79-10; Ord. 80-148; 1968 Code § 9-14-1304)

12-1-401: **APPLICABILITY:** The provisions of this Part 4 shall apply to all utility services of the City.¹ (Ord. 80-148)

12-1-402: LEGAL ACTION:

- A. Any use of or connection to the utility supply system of the City in violation of any provision of this Chapter, or any act or condition which damages, injures or threatens to damage or injure the utility system of the City shall be considered a public nuisance and the City Attorney may commence an action for appropriate legal and/or equitable relief in the District Court in and for the County of El Paso or in any other appropriate court. In any such action the City may recover reasonable attorney fees, costs, court reporter fees and other expenses of litigation.
- B. Any discharge in violation of the provisions of this Chapter or an order of the Director issued pursuant to this Article or any discharge of wastewater, industrial wastes or other wastes into the wastewater treatment system of the City contrary to the provisions of this Chapter or any order of the Director shall be considered a public nuisance and the City Attorney may commence an action for appropriate legal and/or equitable relief in conformance with the provisions of subsection A of this Section. (Ord. 79-10; Ord. 80-148; 1968 Code § 9-14-1303)

12-1-403: **PENALTY:** Any person who performs or fails to perform an act where such

1. Ed. Note: For additional enforcement and penalty provisions applicable to wastewater service, see Sections 12-1-303 and 12-1-304 of this Code.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 1 GENERAL PROVISIONS

PART 4 ENFORCEMENT AND PENALTY

SECTION:

- 12-1-401: Applicability
- 12-1-402: Legal Action
- 12-1-403: Penalty
- 12-1-404: Abatement of Imminent Hazards

performance or failure to perform is declared in any provision of this Chapter to be unlawful, shall be fined and/or imprisoned as provided in Section 1-2-101 of this Code. A separate and distinct offense shall be deemed to have been committed for each day on which violation shall occur or continue. (Ord. 79-10; Ord. 80-148; 1968 Code § 9-14-1304)

12-1-401: APPLICABILITY: The provisions of this Part 4 shall apply to all utility services of the City.¹ (Ord. 80-148)

12-1-404: ABATEMENT OF IMMINENT HAZARDS:

12-1-402: LEGAL ACTION:

- A. Any use of or connection to the utility supply system of the City in violation of any provision of this Chapter, or any act or condition which damages, injures or threatens to damage or injure the utility system of the City shall be considered a public nuisance and the City Attorney may commence an action for appropriate legal and/or equitable relief in the District Court in and for the County of El Paso or in any other appropriate court. In any such action the City may recover reasonable attorney fees, costs, court reporter fees and other expenses of litigation.
- B. Any discharge in violation of the provisions of this Chapter or an order of the Director issued pursuant to this Article or any discharge of wastewater, industrial wastes or other wastes into the wastewater treatment system of the City contrary to the provisions of this Chapter or any order of the Director shall be considered a public nuisance and the City Attorney may commence an action for appropriate legal and/or equitable relief in conformance with the provisions of subsection A of this Section. (Ord. 79-10; Ord. 80-148; 1968 Code § 9-14-1303)

A. Notwithstanding any other provisions of this Chapter to the contrary, if the Director certifies in writing that an imminent hazard exists, and which requires immediate action in order to protect the public health, safety and welfare, he may issue an order to the owner, agent of the owner or occupant of property upon which the imminent hazard exists, stating that such imminent hazard exists and requiring that such actions as he deems necessary be taken in order to abate the imminent hazard. The order issued by the Director shall, if appropriate, set forth the maximum time within which the owner, agent of the owner or occupant must abate the imminent hazard.

B. Whenever the Director shall issue the imminent hazard order, such order shall: 1) be in writing; 2) be personally served whenever feasible on the owner, or agent of the owner and occupant of such premises or, when such personal service is not feasible, either post it conspicuously at the premises or mail to such person by certified mail, return receipt requested, to his last known address; 3) describe with reasonable particularity the condition existing on the premises which gives rise to the issuance of the imminent hazard order; 4) specify, if applicable, the maximum time period within which the imminent hazard must be abated or otherwise corrected; 5) state that an appeal is available provided the provisions of this Section are followed; 6) have a copy of Section 12-1-404 attached; and 7) state that, in the event the property owner,

12-1-403: PENALTY: Any person who performs or fails to perform an act where such

1. Ed. Note: For additional enforcement and penalty provisions applicable to wastewater service, see Sections 12-1-303 and 12-1-304 of this Code.

- B) agent of the owner or occupant fails to comply with the imminent hazard order, the City may take such steps as are necessary to correct the imminent hazard, bill the property owner therefor, and if unpaid, to initiate assessment proceedings against the property pursuant to Chapter 7 of the Code of the City.
- C. In the event the person to whom such imminent hazard order is issued fails or refuses to comply therewith, the Director is hereby empowered to cause the imminent hazard to be summarily abated in such manner or methods as are necessary and appropriate under the circumstances of each given case.
- D. In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the costs and expenses for the abatement of the imminent hazard, a lien may be assessed against the property upon which the imminent hazard exists for such costs of abatement in accordance with Article 1 of Chapter 7, of the Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes.
- E. With respect to enforcing the imminent hazard order, the Director or his designates, and their agents, may enter upon any such premises or property for the purpose of inspecting, abating, repairing or removing or otherwise preventing the condition which is an imminent hazard to the public health, safety and welfare. In the event that the owner, agent or the owner or occupant of the premises subject to the imminent hazard refuses entry to the Director or his designates or agents when such entry is sought pursuant to this Section, the Director may make application to any judge of the Municipal Court of the City for the issuance of an inspection warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired, and shall state facts giving rise to the belief that a condition exists at such premises which is an imminent hazard to the public health, safety and welfare. Any warrant issued pursuant to such application shall command such owner, agent of the owner or occupant to permit inspection and entry by the Director for the purpose stated therein.
- F. Any person aggrieved by the imminent hazard order of the Director may appeal said order to the Hearing Officer, who shall be appointed by the City Manager, provided written application therefor upon the Director is made within five (5) days of service of the imminent hazard order. In no event, however, shall the appeal of the imminent hazard order in any way stay or suspend the same. If a timely appeal is made, a hearing concerning the propriety of the order shall be granted to the owner or agent of the owner of the premises, and, after notice thereof to the appellant, the hearing shall be held no more than ten (10) days after the filing of the notice of appeal. At the hearing, the appellant and the City may be represented by an attorney, may present evidence, and may cross-examine witnesses. A verbatim transcript of the hearing shall be made. The decision of Hearing Officer shall be based upon competent evidence.
- G. The remedies provided in this Section shall be cumulative and in addition to any other remedies which may be available to the Director. Nothing contained herein shall be construed to preclude the Director from seeking such other remedies in addition to, or in lieu of, the remedies granted herein.
- H. The phrase "imminent hazard" shall include, but not be limited to, a violation of any of the provisions of Article 12, or the existence of a public nuisance or any other condition or occurrence which is a menace to the public health, safety and welfare, and which interferes with, or arises out of, the provision of utilities services pursuant to Article 12. (Ord. 84-170)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 1 TITLE

SECTION:

12-2-101: Title

12-2-101: **TITLE:** The title of this Article shall be the "Electric Code" and this Article may be cited as such. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 2 DEFINITIONS

SECTION:

12-2-201: Definitions

12-2-201: **DEFINITIONS:**¹ Unless the context specifically indicates otherwise, the following terms, as used in this Article, shall have the meanings hereinafter designated:

- A. ARTICLE or THIS ARTICLE means Article 2 of Chapter 12 of the Code of the City of Colorado Springs.
- B. DISTRIBUTION FACILITIES means distribution lines and/or service lines and appurtenances thereto.
- C. DISTRIBUTION LINE means a line conducting electricity which is used for the purpose of general distribution of electricity to users, extending from the substations up to but not including the service line.
- D. DIVISION or ELECTRIC DIVISION means the operating Division of the Department of Utilities which is responsible for the operation and maintenance of the electric supply system of the City.
- E. ELECTRIC POLE means the vertical pole or other structure used to support overhead electric lines, transformers or other electrical facilities, and includes such facilities, excluding service lines, transmission lines and distribution lines.
- F. ELECTRIC SUPPLY SYSTEM or ELECTRIC SYSTEM means:
 - 1. Any and all devices, facilities, structures, equipment or works owned or used by the City for the purpose of the production, generation, transmission, distribution or regulation of electricity, including but not limited to electric
 - F, 1) lines, service lines, transformers, electric poles, meters, electric generation plants and substations;
 - 2. Any and all rights, property and obligations of the City concerning electricity and electric production, transmission and distribution facilities;
 - 3. Any and all standby or contingency equipment, facilities, devices or materials which may be necessary to provide reliable electric service;
 - 4. Any and all land or sites owned or used by the City for the purpose of generating electricity and/or providing electric service to users, including any and all substations, easements and rights of way; and
 - 5. Any and all appurtenances, extensions, improvements, additions, alterations or replacements thereof.
- G. MANAGER OF PRODUCTION means the Manager of Production Operations of the Electric Division, or his designated representative.
- H. MANAGER OF TRANSMISSION AND DISTRIBUTION means the Manager of Transmission and Distribution Operations of the Electric Division, or his designated representative.
- I. PRODUCTION SYSTEM means that portion of the electric supply system of the City which is used primarily for the generation or production of electrical energy, including electric generation plants and their appurtenances up to but not including substations.
- J. SERVICE LINE means a distribution facility which conducts electricity from distribution lines to users and which extends from such distribution line to the point of connection on

¹ For definitions of general application, see Section 1-1-203 of this Code. For other definitions applicable to Chapter 12 generally, see Section 12-1-101.

- J) the building or other structure of such user, including such connection.
- K. **TRANSMISSION AND DISTRIBUTION SYSTEM** means that portion of the electric supply system of the City which is used primarily for the transmission of electricity between substations or transformers or for the distribution of electricity to users, from and including substations which receive electricity from electric generation plants. Such system shall also include service lines, transmission lines and distribution lines.
- L. **TRANSMISSION LINE** means a line conducting electricity which is used for the purpose of transmitting electricity from electric generation plants to substations for transformation or distribution, or between such substations.
- M. **USER** means any person who uses, takes electricity from, or is connected to the electric supply system of the City, except as expressly provided otherwise by contract with the Department.
- N. **NESC** means the National Electrical Safety Code as adopted by the American National Standards Institute (ANSI).
- O. **NEC** means the National Electrical Code as adopted by the National Fire Protection Association (NFPA). (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 3 ELECTRIC DIVISION

SECTION:

12-2-301: Responsibility of Division

12-2-302: Responsibility of Managers

12-2-303: Rules and Regulations; Adoption of

12-2-301: RESPONSIBILITY OF DIVISION: The Electric Division shall be responsible for the electric transmission and distribution system and the electric production system serving the City and such other areas as authorized by the City Council and the Public Utilities Commission of the State of Colorado. (Ord. 80-148)

12-2-302: RESPONSIBILITY OF MANAGERS:

- A. The Manager of Production shall be responsible for the management of the electric production system of the City and all of the property appertaining thereto. He shall see that such system is properly maintained and kept in good working order and repair and he shall ensure proper compliance with all local, State and Federal regulations concerning the generation of electricity. He shall ensure proper planning of future bulk power production facilities to adequately and efficiently meet the demands of users. He shall ensure proper design and construction of new production facilities, and he shall be responsible for the management of all fuel supplies and associated transportation for the generation of electricity.
- B. The Manager of Transmission and Distribution shall be responsible for the management of the electric transmission and distribution system of the City and all of the property appertaining thereto. He shall see that such system is properly maintained and kept in good working order and repair and he shall ensure proper compliance with all local, State and Federal regulations concerning the transmission and distribution of electricity. He shall ensure

B) proper planning of future bulk power systems and transmission and distribution facilities to adequately and efficiently meet the demands of the users. He shall ensure proper design and construction of new transmission and distribution facilities, and he shall be responsible for the operation of the bulk power system facilities.

C. The Manager of Production and the Manager of Transmission and Distribution shall perform all other duties in connection with their respective operations as may be required by the Director of Utilities. (Ord. 80-148)

12-2-303: RULES AND REGULATIONS; ADOPTION OF:

- A. Rules and regulations adopted by the Manager of Production shall pertain to but shall not be limited to planning, design, construction, operation and maintenance of the electric production plant and its appurtenant facilities. In establishing such rules and regulations, the Manager of Production shall seek to assure the safe and efficient operation of the electric production system, and the protection of such system, process, equipment and facilities appurtenant thereto.
- B. Rules and regulations adopted by the Manager of Transmission and Distribution shall pertain to but shall not be limited to installation, construction, operation and maintenance of the electric transmission and distribution system of the City and standards, specifications, procedures and guidelines for regulating the transmission, distribution and use of electricity supplied by the City. In establishing such rules and regulations, the Manager of Transmission and Distribution shall seek to assure the safe and efficient operation of the electric transmission and distribution system, and the protection of such system, process, equipment and facilities appurtenant thereto. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 4 ELECTRIC SERVICE

SECTION:

12-2-401: Regulation of Electric Service
 12-2-402: Reserved
 12-2-403: Reserved
 12-2-404: Reserved
 12-2-405: Regulations; Priority of
 12-2-406: Service; Special Contract
 12-2-407: Service; Excavations for
 12-2-408: Security Lighting

12-2-401: **REGULATION OF ELECTRIC SERVICE:**

- A. The rates, charges and regulations, including conditions, for all classes of electric service shall be determined by the City Council for customers and users inside and outside of the corporate limits of the City and shall be set forth in tariff sheets to be adopted by reference, by ordinance, or by resolution as provided in this Section.
- B. One copy of the currently effective tariff sheets for electric service shall be kept on file with the City Clerk and shall be open for public inspection during regular business hours. Copies hereof may be purchased by any person upon payment of the cost of reproduction.
- C. Base rates or regulations or any change therein, shall be adopted by ordinance or resolution, which shall adopt by reference the appropriate tariff sheet or sheets to be established or revised.
 1. Notice and Order for Hearing. Upon presentation of a proposed ordinance or resolution regarding adoption or change in base rates or regulations, the City Council shall set a hearing not less than thirty (30) days or more than sixty (60) days from the date of the notice of the proposed ordinance or resolution and shall order notice of the proposed ordinance or resolution to be made as follows:

C,1) (a) One copy of the proposed ordinance or resolution, including the proposed change in the base rates or regulations, and one copy of any written documents which the Department of Utilities has provided to City Council to explain the proposed ordinance or resolution, shall be filed and kept open for public inspection in the office of the City Clerk.

(b) Notice shall be given by publishing the proposed ordinance or resolution at least once in at least one newspaper of general circulation within the City at least thirty (30) days and no more than sixty (60) days prior to the date set for the public hearing. Such notice shall include: (1) an explanation of the proposed changes in rates or regulations, or new base rates or regulations; (2) the time when the same shall go into effect; and (3) a statement that one copy of the ordinance or resolution and one copy of any written documents which the Department of Utilities has provided to City Council to explain the proposed ordinance or resolution are on file and open for public inspection in the office of the City Clerk.

(c) If it is impractical due to the size or bulk of the proposed ordinance or resolution to publish the same in a newspaper, a summary thereof prepared by the City Clerk shall be published and notice shall be given of the availability of the proposed ordinance or resolution for public inspection, including any new schedules stating plainly the changes to be made in the schedules then in force, at least once in at least one newspaper of general circulation in the authorized service area at least thirty (30) days and no more than sixty (60) days prior to the date set for public hearing.

(d) Notice of any change in base rates or regulations shall be mailed to customers served outside the City's corporate boundaries. The notice shall state the date and time of public hearing and that one copy of the proposed ordinance or resolution, including the proposed

C,1) change in base rates or regulations, and one copy of any written documents which the Department of Utilities has provided the City Council to explain the proposed ordinance or resolution and changes are on file and open for public inspection in the office of the City Clerk.

2. Public Hearing. The City Council shall conduct a public hearing to consider the proposed ordinance or resolution. The procedures to be followed concerning the hearing shall include the following:

(a) The City Council shall not delegate hearing on the proposed ordinance or resolution to any other person, board or commission.

(b) The City Council may question witnesses and may be assisted by legal, technical or other professional personnel or advice, as it deems necessary. All discussions and presentations concerning the proposed ordinance or resolution shall be in a public hearing.

(c) The Department of Utilities shall make a presentation, including a presentation of exhibits to explain the proposed base rates or regulations, and the need therefore.

(d) Any user or customer of the Department of Utilities, their representative or their attorney, shall be allowed to present testimony and/or exhibits relevant to the proposed ordinance or resolution during that portion of the public hearing when public comment is allowed.

(e) Any user or customer may represent themselves, may select a representative or be represented by legal counsel.

(f) Customers or users, their representative or attorney, who desire to present witnesses other than themselves concerning the proposed ordinance or resolution may request an opportunity to present testimony and/or exhibits by filing with the City Clerk a notice of intent to present witnesses, which shall contain a list of the names of witnesses which the user or customer proposes to present at the public hearing and a short summary of testimony of each witness, including a copy of all exhibit and other documentation that the user or customer proposes to present to the City Council for its

C,2) consideration, not less than five (5) working days prior to the public hearing.

(g) Testimony must be relevant to the issues being heard before the City Council, and not be repetitious. If the testimony or exhibits to be offered by a customer or user appear to be unduly repetitious, the City Council may require all similarly interested customers or users to designate a spokesman, or may appoint a spokesman for them, who alone shall be allowed to present testimony or exhibits.

(h) City Council shall have discretion to limit the time for presentation by the Department and customers or users, their representatives or attorneys, desiring to present testimony or exhibits. The hearing shall be legislative in nature, but the City Council may allow such questioning, rebuttal or argument by the Utilities Department, customers or users, their attorneys or representatives, as it considers appropriate.

3. The City council may amend the proposed ordinance or resolution and revise any proposed base rate or regulation as a result of information presented at the public hearing.

D. Procedure to Change Certain Rates or Charges and Authorize Refunds by Resolution Without Notice and Public Hearing.

1. The City Council, for good cause shown, may by resolution:

(a) Change rates or charges of the electric utility to reflect fuel cost adjustments in the rates of the electric utility; or

(b) Authorize a refund of costs or charges to customers of the electric utility; or

(c) Change any other fees, rates or charges that are not within the control or discretion of the City or the Department of Utilities.

2. In the cases noted above, Council may authorize such changes without requiring notice and public hearing. The resolution adopting such changes will be considered an order of the City Council and shall specify the changes to be made and shall state (1) the circumstances necessitating the change without notice and

- D,2) public hearing, (2) the effective date of the changes and (3) the manner in which the changes shall be published.
- E. Standard for Setting Rates. All rates, as established by the City Council shall be just, reasonable, sufficient and not unduly discriminatory. All rates and regulations shall be designated in tariff sheets as provided above and shall indicate an approval date and an effective date to be set by the City Council. (Ord. 83-223)

12-2-402: **Reserved**

12-2-403: **Reserved**

12-2-404: **Reserved**

12-2-405: REGULATIONS; PRIORITY OF:

- A. The use or connection to the electric supply system of the City by any person shall be subject to one or more of the following as applicable:
1. All ordinances and resolutions of the City;
 2. The provisions of the currently effective tariff sheets governing electric service for the various classes, including regulations set forth herein;
 3. Applicable provisions of the National Electric Safety Code as modified and adopted by the Manager of Transmission and Distribution;
 4. Applicable provisions of the National Electric Code as adopted by the Regional Building Code.
- B. In the event of any inconsistency or conflict among or between any of the foregoing sources of regulation, precedence shall be given in the order in which such sources of regulation are set out herein.
- C. Where the PUC retains jurisdiction of a utility matter, applicable decisions or rules of the PUC shall take precedence over the sources of regulations set out herein. (Ord. 80-148; Ord. 82-136; Ord. 83-223)

12-2-406: SERVICE; SPECIAL CONTRACT: The City may provide by special contract for the use of or connection to the electric supply system of the City by institutions, plants, districts, governments, municipal corporations or other similar users. (Ord. 83-223)

12-2-407: SERVICE; EXCAVATIONS FOR: All excavations for electric service installation or repair shall be performed in accordance with the City Code and the rules and regulations of the Division as applicable. Such excavations shall meet all applicable safety standards, including any requirements as to barricades and lights. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Department of Public Works of the City.¹ (Ord. 80-148)

12-2-408: SECURITY LIGHTING:

- A. The Division may install an exterior light fixture on an existing electric pole in an existing easement of the City for the purpose of security lighting.
- B. Any person desiring installation of security lighting shall submit a written request for such lighting to the Division. Such request shall include consent for installation of such lighting from all adjacent property owners.
- C. The Division shall provide and install the light fixture. The user shall pay all estimated costs of materials and labor in advance. In the event that the amount of such advance payment is less than the actual costs of installation, the balance shall be paid by the user after installation of the light fixture. In the event that the amount of such advance payment exceeds the actual costs of installation, the balance shall be refunded to the user by the Department after installation of the light fixture.
- D. In the event that there is more than one request for a single light fixture, one person must be named to be responsible for payment of charges and maintenance of such fixture.
- E. All maintenance of security lighting shall be performed by the Division upon notification by

1. Ed. Note: For excavation regulations, see Part 2 of Article 5 of Chapter 19 of this Code.

- E) the user. The user shall bear all costs of maintenance, and the Division shall replace burned-out bulbs at the request of the user.
- F. The security lighting user shall be charged at the applicable monthly rate for energy consumed. In the event that charges imposed by this Section are not paid when due, the Division may remove the light fixture at its own expense, which fixture shall be forfeited to the City.
- G. Responsibility for payment of charges and maintenance of the light fixture may be transferred at any time by agreement between the user and the Division. Upon request of the user the light fixture shall be removed at his expense, and the user shall retain ownership of the light fixture. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 5 CONNECTION AND INSTALLATION OF SYSTEM

SECTION:

- 12-2-501: Connection to System
- 12-2-502: Unauthorized Connection Prohibited
- 12-2-503: Unauthorized Connection; Recovery of User Charges
- 12-2-504: Transmission and Distribution Lines; Installation
- 12-2-505: Distribution Lines; Underground
- 12-2-506: Distribution Facilities; Compliance with Subdivision Requirements

12-2-501: CONNECTION TO SYSTEM: The owner or developer of premises shall notify the Division when such premises are ready for connection to the electric supply system of the City. No premises shall be supplied with permanent electricity from the electric supply system unless the same shall be designated by official street name and number and such official number shall be placed and maintained conspicuously thereon in accordance with the addressing requirements of this Code, and in particular, Sections 16-1-5 et seq. and 20-2-105J et seq. Connections of such premises shall only be performed upon approval by the Division. The City shall not be subjected to any liability for any deficiency or defect which is not discovered by inspection nor shall the owner or developer of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect. (Ord. 80-148; Ord. 86-106)

12-2-502: UNAUTHORIZED CONNECTION PROHIBITED: It shall be unlawful for any person to connect any wire, cord, socket, motor or other instrument, device or contrivance to the electric supply system or any part thereof, on the supply side of the meter, without the written consent of the Manager of Transmission and Distribution. In addition to any other penalties that may be imposed, the Court may order any person who is found guilty of violating the provisions of this Section to pay estimated user charges for the period during which such violation existed. (Ord. 80-148; 1968 Code § 9-8.1)

12-2-503: UNAUTHORIZED CONNECTION; RECOVERY OF USER CHARGES: In addition to other penalties set out in this Chapter, estimated user charges may be recovered by the Department from any person who connects any wire, cord, socket, motor or other instrument, device or contrivance to the electric supply system or any part thereof on the supply side of the meter without the written consent of the Manager of Transmission and Distribution. (Ord. 80-148)

12-2-504: TRANSMISSION AND DISTRIBUTION LINES; INSTALLATION:

- A. Except as otherwise provided in this Article, transmission and/or distribution lines shall be installed by means of overhead wires.
- B. The Manager of Transmission and Distribution shall determine the location, direction, type and capacity of all transmission and/or distribution lines. Easements may be required where deemed necessary by such Manager to ensure the safety or efficiency of the operation or maintenance of the transmission or distribution system. (Ord. 80-148)

12-2-505: DISTRIBUTION LINES; UNDERGROUND: An underground distribution line shall be installed to a new area, addition, development or subdivision requiring underground utilities as designated by the City and/or the County Planning Commission or as required by the Code of the City, or upon request of the owner or developer of such area, addition, development or subdivision. (Ord. 80-148)

12-2-506: DISTRIBUTION FACILITIES; COMPLIANCE WITH SUBDIVISION REQUIREMENTS: No electric distribution facilities shall be laid, placed or installed in any proposed addition or subdivision within the City for service thereto until said addition or subdivision is platted and approved in accordance with Chapter 15 of the Code of the City.¹ (Ord. 80-148)

1. Ed. Note: Waiver of subdivision requirements may be granted by City Council under the provisions of Part 13 of Article 3 of Chapter 15 of this Code.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 6 CONVERSIONS AND EXTENSIONS

SECTION:

12-2-601: Conversion; Overhead Service Line
 12-2-602: Conversion; Overhead Distribution Line
 12-2-603: Conversion; Conditions

12-2-601: CONVERSION; OVERHEAD SERVICE LINE: Upon request of the owner of premises served by an overhead distribution line, an overhead service line may be converted to an underground service line. Such conversion shall be effected by the owner in accordance with rules and regulations promulgated by the Manager of Transmission and Distribution. (Ord. 80-148)

12-2-602: CONVERSION; OVERHEAD DISTRIBUTION LINE:

- A. An overhead distribution line in a residential area may be converted to an underground distribution line upon request of all owners of property in such area connected to the existing overhead distribution line. Any such conversion shall be in accordance with the provisions of Section 12-2-603 of this Article.
- B. Conversion of an overhead distribution line to an underground distribution line shall include conversion to or installation of underground service lines to all premises served by the electric supply system of the City within the proposed conversion area. (Ord. 80-148)

12-2-603: CONVERSION; CONDITIONS:

- A. Prior to consideration of any request for conversion of overhead distribution lines to underground distribution lines as provided by Section 12-2-602 of this Article, all of the following conditions shall be met:

- A) 1. The proposed conversion area shall be deemed adequate in size by the Manager of Transmission and Distribution. An area less than one block, as such term is defined in Section 15-3-108 of this Code, shall not be considered for conversion.

2. Each owner of property within the proposed conversion area shall give written consent to the conversion prior to consideration of such area.

3. The cost of converting overhead distribution facilities to underground distribution facilities, including removal of such overhead facilities, shall be borne by the owner or developer of the premises or area so converting. Each owner of property within the proposed conversion area shall agree to pay a pro-rata share of the cost of conversion, or such other amount as may be fixed by agreement among all such property owners. All such property owners must agree in writing to an arrangement for payment of the total conversion cost prior to consideration of the area. This Section shall not be construed to prohibit payment by any person of conversion costs in an amount greater than such person's pro-rata share of such costs, and any person may pay the total conversion costs.

- B. The Division shall prepare the necessary plans and easement requests for a proposed conversion, and it shall prepare a cost estimate for presentation to the property owners in the proposed conversion area. Such owners shall either accept or reject conversion within ninety (90) days from such presentation; failure to respond shall be deemed rejection of the proposed conversion.
- C. For any conversion provided by this Section, the Division shall install the underground distribution facilities, and the Division shall remove the overhead distribution facilities except such facilities as may be necessary for other public services or utilities. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 7 ELECTRIC METERS

SECTION:

- 12-2-701: Multiple Meter Sockets; Marking Required
- 12-2-702: Definitions
- 12-2-703: Unlawful Acts
- 12-2-704: Restitution
- 12-2-705: Evidence of Violations
- 12-2-706: Interruption of Service on Account of Tampering, By-Passing or Unauthorized Metering
- 12-2-707: Reconnection Charges for Tampering, By-Passing or Unauthorized Metering

12-2-701: MULTIPLE METER SOCKETS; MARKING REQUIRED: In the event that electric service to a single premises serves more than one user, the owner of such premises shall install a multiple meter socket to permit the installation of a meter to measure the consumption of electricity by each such user. The owner of such premises shall plainly mark each meter socket of the multiple meter socket with a permanent brass tag which identifies the apartment, office, room or other area served by each meter at such multiple meter socket. (Ord. 80-148)

12-2-702: DEFINITIONS: As used in this Part 7, the following definitions shall apply:

BY-PASS or **BY-PASSING** shall mean any wire, cord, socket, motor or other instrument, device or contrivance connected to the electric supply system or any part thereof in such a manner as to transmit, supply or use any electricity without passing through an authorized meter for measuring or registering the amount of such electricity.

CUSTOMER shall mean the person or organization responsible for the electric utility account for the premises and includes authorized employees or agents of the owner.

TAMPER or **TAMPERING** shall mean damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter provided for measuring or registering the amount of electricity passing through such meter.

UNAUTHORIZED METERING shall mean removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for electric service by a person other than an authorized employee of the Department. (Ord. 81-161)

12-2-703: UNLAWFUL ACTS:

- A. It shall be unlawful for any person to install a by-pass without the express written authorization of the Manager of Transmission and Distribution.
- B. It shall be unlawful for any customer or the user at any premises knowingly to receive electric service by means of a by-pass which has not been authorized in writing by the Manager of Transmission and Distribution.
- C. It shall be unlawful for any person to tamper with an electric meter or other electric utility equipment without the express written authorization of the Manager of Transmission and Distribution.
- D. It shall be unlawful for any customer or the user at any premises knowingly to receive electric service by means of tampering which has not been authorized in writing by the Manager of Transmission and Distribution.
- E. It shall be unlawful for any person to engage in unauthorized metering.
- F. It shall be unlawful for any customer or the user at any premises knowingly to receive electric service by means of unauthorized metering which has not been expressly authorized in

- F) writing by the Manager of Transmission and Distribution. (Ord. 81-161)

12-2-704: RESTITUTION: As a condition of granting probation, deferred prosecution, deferred sentence or suspended sentence, the Court may order any person who is charged with or found guilty of, as the case may be, violating any of the provisions of Section 12-2-703 to pay as restitution estimated or actual user charges for the period during which the violation existed, the cost of repairing or replacing any damaged utility equipment, and any other costs incurred by the City related to the violation including, but not limited to, costs of investigation, disconnection, reconnection and service calls. (Ord. 81-161)

12-2-705: EVIDENCE OF VIOLATIONS:

- A. Proof of the existence of any by-pass, tampering or unauthorized metering, as prohibited in this Part 7, shall be deemed prima facie evidence that the user at the premises where such bypass, tampering or unauthorized metering is proved to exist had knowledge of the by-pass, tampering or unauthorized metering if it is proved that the user is an occupant of the premises and that said user had access to the electric meter or other utility equipment where the by-pass, tampering or unauthorized metering is proved to exist.
- B. Proof of the existence of any by-pass, tampering or unauthorized metering as prohibited by this Part 7, shall be deemed prima facie evidence that the customer had knowledge of the by-pass, tampering or unauthorized metering if it is proved that said customer controlled access to the electric meter or other utility equipment where the by-pass, tampering or unauthorized metering is proved to exist. (Ord. 81-161)

12-2-706: INTERRUPTION OF SERVICE ON ACCOUNT OF TAMPERING, BY-PASSING OR UNAUTHORIZED METERING: Tampering, by-passing or unauthorized metering, as defined in Section 12-2-702, is subterfuge and constitutes a safety hazard. Such tampering, by-passing or unauthorized metering shall be grounds

for immediate disconnection of service without notice to the customer or user at such premises, and service shall not be reconnected until any and all deficiencies in wiring, connections, meters and/or electrical facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all applicable ordinances, rules and regulations, and until the requirements of Section 12-2-707 are met. (Ord. 81-161)

12-2-707: RECONNECTION CHARGES FOR TAMPERING, BY-PASSING OR UNAUTHORIZED METERING: In order for electric service to be reconnected to premises where tampering, by-passing or unauthorized metering has occurred, the customer or user at the premises shall pay the following charges to the Department prior to the reconnection:

- A. A service charge calculated to compensate the Department for all reasonable expenses incurred on account of the tampering, by-passing or unauthorized metering including, but not limited to, costs of investigation, disconnection, reconnection and service calls, but in no event less than thirty five dollars (\$35.00); and
- B. The cost of repairing or replacing any damaged utility equipment; and
- C. The actual or estimated user charges not previously billed to the customer as a result of the tampering, by-passing or unauthorized metering. (Ord. 81-161)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 2 ELECTRIC CODE

PART 8 CONTROL AND PROTECTION OF ELECTRIC SYSTEM

SECTION:

- 12-2-801: Unlawful to Damage System
 12-2-802: Attachment to Poles Prohibited
 12-2-803: Minimum Clearance from Overhead Lines
 12-2-804: Liability of City; Exclusion of

12-2-801: UNLAWFUL TO DAMAGE SYSTEM:

- A. It shall be unlawful for any person to interfere or tamper in any manner with any transmission line, distribution line, service line, meter or any appurtenance thereof connected to or part of the electric system without prior written permission obtained from the Manager of Transmission and Distribution.
- B. It shall be unlawful for any person to damage, impair or deface any part, appliance or appurtenance of the electric supply system of the City.
- C. It shall be unlawful for any person to excavate, obstruct or disconnect any distribution facility of the City, or to do any act or thing to divert, damage, drain or otherwise impede or hinder, or tend to impede or hinder, the flow of electricity through the electric supply system of the City. (Ord. 80-148)

12-2-802: ATTACHMENT TO POLES PROHIBITED:

It shall be unlawful for any person to attach in any manner any object, device or contrivance, including placards and bills, to any electric pole of the City without the express written consent of the Manager of Transmission and Distribution. (Ord. 80-148)

12-2-803: MINIMUM CLEARANCE FROM OVERHEAD LINES:

- A. For the purposes of this Section, the term "clearance" shall mean the shortest distance between any two (2) surfaces.
- B. Minimum clearance between any building or other structure and any overhead transmission line, overhead distribution facility, or electric pole of the City; shall be maintained in accordance with the provisions of the National Electrical Safety Code, as adopted by the Regional Building Code.
- C. Minimum clearance between trees, bushes, foliage, signs, chimneys, radio and television antennas, tanks and other installations not classified as buildings or structures, and any overhead transmission line, overhead distribution facility or electric pole of the City shall be maintained in accordance with the provisions of the National Electrical Safety Code, as adopted by the Regional Building Code.
- D. Minimum clearance over streets, alleys, parking lots, rights of way and easements by any overhead transmission line or overhead distribution facility shall be maintained in accordance with provisions of the National Electrical Safety Code as adopted by the Regional Building Code.
- E. Any person who proposes any action that would result in violation of the minimum clearances as set out in subsections B and C of this Section shall give ninety (90) days' prior notice of such proposed action to the Division. Any person who proposes to change the use of land or change the grade of land that would result in conflict with subsection D of this Section shall give ninety (90) days' prior notice of such action. Upon such notice, the Division shall determine the feasibility of relocating such line, distribution facility and/or electric pole which is in conflict with the proposed action to

- E) a suitable and safe location. Should it be determined by the Division that such relocation is feasible, the Division shall perform the necessary relocation at the expense of the person whose proposed action violates the minimum clearance requirement. Relocation of such overhead transmission line, distribution facility and/or electric pole shall begin on such date as the Division may designate.
- F. Should it be determined by the Division that the relocation of a transmission line, distribution facility and/or electric pole is not feasible, the Division may require such other action as will prevent a violation of the minimum clearance requirement. Any action which the Division may require pursuant to this subsection shall be performed at the expense of the person whose proposed action violates the minimum clearance requirement.
- G. In the event that the required ninety (90) day notice is not received by the Division, the City shall not be liable for any damage or injury to persons or property caused by or resulting from failure to maintain the minimum clearance prescribed by this Section. The person whose action violates the minimum clearance requirement shall be deemed to have assumed the risk of any resulting damage or injury and to have impliedly agreed to indemnify the City against such loss, which indemnity shall run with and be a charge upon the land upon which the clearance requirement is violated.
- H. When the Director of Utilities or his designated representative has reasonable cause to believe that there may exist on any premises a minimum line clearance violation, he may enter upon any such premises at any reasonable hour for the purpose of inspecting, abating, removing or preventing any such condition.
- I. In the event that the owner or occupant of any premises located within the City refuses to permit entry by the Director or his designated representative when such entry is sought pursuant to subsection H of this Section, the Director or his designated representative may make application to any judge of the Municipal Court of the City for the issuance of an

- I) inspection warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired, and shall state the facts giving rise to the belief that a minimum line clearance violation exists at such premises. Any warrant issued pursuant to such application shall command such owner or occupant to permit entry by the Director or his designated representative for the purpose stated therein. (Ord. 80-148, Ord. 82-136)

12-2-804: **LIABILITY OF CITY; EXCLUSION**

OF: The City shall not be liable to any person for failure to maintain electric service during repairs or extensions to the electric supply system, nor shall the City be liable where such failure is caused by or results from a strike, an act of God, an unavoidable accident or other contingency beyond the control of the City. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 1 TITLE

SECTION:

12-3-101: Title

12-3-101: **TITLE:** The title of this Article shall be "The Natural Gas Code" and this Article may be cited as such. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 2 DEFINITIONS

SECTION:

12-3-201: Definitions

12-3-201: **DEFINITIONS:**¹ Unless the context specifically indicates otherwise, the following terms, as used in this Article, shall have the meanings hereinafter designated:

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| <p>A. ARTICLE or THIS ARTICLE means Article 3 of Chapter 12 of the Code of the City of Colorado Springs.</p> <p>B. CERTIFIED SERVICE LINE FITTER shall mean any person certified by the Gas Division of the City of Colorado Springs to install natural gas service lines.</p> <p>C. CUSTOMER means the person, authorized agent or employee of the person responsible for the Department of Utilities' gas service account for the premises being served.</p> <p>D. DISTRIBUTION LINE means a pipe transporting natural gas, high or low pressure, which is used for the purpose of general distribution of natural gas to users.</p> <p>E. DISTRIBUTION SYSTEM means that portion of the natural gas system of the City which is used primarily for the distribution of natural gas to the user.</p> <p>F. DIVISION or GAS DIVISION means the operating Division of the Department of Utilities which is responsible for the operation and maintenance of the natural gas supply system of the City.</p> <p>G. FUEL PIPING means the piping downstream of the Gas Division's meter set, which is owned and maintained by the owner of the premise being served.</p> <p>H. MAIN LINE means a distribution line that serves as a common source of supply for more than one service line.</p> | <p>I. MANAGER means the Manager of the Gas Division or his designated representative.</p> <p>J. MASTER METER SYSTEM means any system of distributing gas whereby an owner buys metered gas from the City then distributes and sells the gas through the owner's own underground piping system to the ultimate user.</p> <p>K. METER SET means the Gas Division's Piping, fittings, service regulator, service meter, associated equipment, and instruments installed downstream of the service riser shut off valve and upstream of the connection to the owner's fuel piping.</p> <p>L. NATURAL GAS means any fuel consisting in whole or in part of natural gas or synthetic natural gas derived from petroleum liquids, coal, organic wastes, etc.</p> <p>M. NATURAL GAS SUPPLY SYSTEM or NATURAL GAS SYSTEM means:</p> <ol style="list-style-type: none"> 1. Any and all devices, facilities, structures, equipment or works owned or used by the City for the purpose of the production, distribution or regulation of natural gas, including but not limited to natural gas main lines, service lines, regulators, meter set, valves and associated appurtenances; 2. Any and all rights, property and obligations of the City concerning natural gas distribution facilities; 3. Any and all standby or contingency equipment, facilities, devices or materials which may be necessary to provide reliable natural gas service including the propane air plant; 4. Any and all land or sites owned or used by the City for the purpose of measuring and regulating natural gas and/or providing natural gas service to users, including any and all Gas Division facilities, easements and rights of way; and |
|--|--|

¹. For definitions of general application, see Section 1-1-203 of this Code. For other definitions applicable to Chapter 12 generally, see Section 12-1-101.

- M) 5. Any and all appurtenances, extension, improvements, additions, alterations or replacements thereof.
- N. OWNER means the person who holds record title to the premise being served.
- O. SERVICE LINE means a distribution line that transports natural gas from a main line to a gas division meter set.
- P. SERVICE STUB means that portion of the service line which extends from the main line to the owner's property line, or to the City's utility easement line, whichever is appropriate.
- Q. USER means any person who uses, consumes natural gas from or is connected to the natural gas supply system of the City. A user may also be an owner, customer, or neither. (Ord. 80-148; Ord. 84-266)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 3 GAS DIVISION

SECTION:

12-3-301: Responsibility of Division

12-3-302: Responsibility of Manager

12-3-303: Rules and Regulations; Adoption of

- A) assure the safe and efficient operation of the natural gas distribution system, and the protection of such system, process, equipment and facilities appurtenant thereto. (Ord. 80-148)

12-3-301: **RESPONSIBILITY OF DIVISION:** The Gas Division shall be responsible for the natural gas supply system serving the City and such other areas as authorized by the City Council and the Public Utilities Commission of the State of Colorado. (Ord. 80-148)

12-3-302: **RESPONSIBILITY OF MANAGER:**

- A. The Manager shall be responsible for the management of the natural gas distribution system of the City and all of the property appertaining thereto. He shall see that such system is properly maintained and kept in good working order and repair and he shall ensure proper compliance with all local, State and Federal regulations concerning the distribution of natural gas.
- B. The Manager shall perform such other duties in connection with operations of the Division as may be required by the Director of Utilities. (Ord. 80-148)

12-3-303: **RULES AND REGULATIONS; ADOPTION OF:**

- A. Rules and regulations adopted by the Manager shall pertain to but shall not be limited to installation, construction, operation and maintenance of the natural gas distribution system of the City and standards, specifications, procedures and guidelines for regulating the distribution and use of natural gas supplied by the City. In establishing such rules and regulations, the Manager shall seek to

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 4 GAS SERVICE

SECTION:

12-3-401: Regulation of Natural Gas Service
 12-3-402: Regulations; Priority of
 12-3-403: Service; Special Contract
 12-3-404: Service; Excavations For

12-3-401: REGULATION OF NATURAL GAS SERVICE:

- A. The rates, charges and regulations, including conditions for all classes of natural gas service, for customers and users inside and outside of the corporate limits of the City shall be determined by the City Council, except in the case of a sale of natural gas by the Department to another public utility. The rates, charges and regulations including conditions established by City Council, for all classes of natural gas service, shall be set forth in tariff sheets to be adopted by reference by ordinance or resolution as provided in this Section.
- B. One copy of the currently effective tariff sheets for natural gas service shall be kept on file with the City Clerk and shall be open for public inspection during regular business hours. Copies thereof may be purchased by any person upon payment of the cost of reproduction.
- C. Base rates or regulations, or any change therein, shall be adopted by ordinance or resolution which shall adopt by reference the appropriate tariff sheet or sheets to be established or revised.

1. Notice and Order for Hearing: Upon presentation of a proposed ordinance or resolution regarding adoption or change in base rates or regulations, the City Council shall set a hearing not less than thirty (30) days or more than sixty (60) days from the date of the notice of the proposed ordinance or resolution and shall order notice of the proposed ordinance or resolution to be made as follows:

- C1) (a) One copy of the proposed ordinance or resolution, including the proposed change in the base rates or regulations, and one copy of any written documents which the Department of Utilities has provided to City Council to explain the proposed ordinance or resolution, shall be filed and kept open for public inspection in the office of the City Clerk.

(b) Notice shall be given by publishing the proposed ordinance or resolution at least once in at least one newspaper of general circulation within the City at least thirty (30) days and no more than sixty (60) days prior to the date set for the public hearing. Such notice shall include: (1) an explanation of the proposed changes in rates or regulations, or new base rates or regulations; (2) the time when the same shall go into effect; and (3) a statement that one copy of the ordinance or resolution and one copy of any written documents which the Department of Utilities has provided to City Council to explain the proposed ordinance or resolution are on file and open for public inspection in the office of the City Clerk.

(c) If it is impractical due to the size or bulk of the proposed ordinance or resolution to publish the same in a newspaper, a summary thereof prepared by the City Clerk shall be published and notice shall be given of the availability of the proposed ordinance or resolution for public inspection, including any new schedules stating plainly the changes to be made in the schedules then in force, at least once in at least one newspaper of general circulation in the authorized service area at least thirty (30) days and no more than sixty (60) days prior to the date set for public hearing.

(d) Notice of any change in base rates or regulations shall be mailed to customers served outside the City's corporate boundaries. The notice shall state the date and time of public hearing and that one copy of the proposed ordinance or resolution, including the proposed

C1) change in base rates or regulations, and one copy of any written documents which the Department of Utilities has provided the City Council to explain the proposed ordinance or resolution and changes are on file and open for public inspection in the office of the City Clerk.

2. Public Hearing: The City Council shall conduct a public hearing to consider the proposed ordinance or resolution. The procedures to be followed concerning the hearing shall include the following:

(a) The City Council shall not delegate hearing on the proposed ordinance or resolution to any other person, board or commission.

(b) The City Council may question witnesses and may be assisted by legal, technical or other professional personnel or advice, as it deems necessary. All discussions and presentations concerning the proposed ordinance or resolution shall be in a public meeting.

(c) The Department of Utilities shall make a presentation, including a presentation of exhibits to explain the proposed base rates or regulations, and the need therefor.

(d) Any customer or user of the Department of Utilities, their representative or their attorney, shall be allowed to present testimony and/or exhibits relevant to the proposed ordinance or resolution during that portion of the public hearing when public comment is allowed.

(e) Any user or customer may represent themselves, may select a representative or be represented by legal counsel.

(f) Customers or users, their representative or attorney, who desire to present witnesses other than themselves concerning the proposed ordinance or resolution may request an opportunity to present testimony and/or exhibits by filing with the City Clerk a notice of intent to present witnesses, which shall contain a list of the names of witnesses which the user or customer proposed to present at the public hearing and a short summary of testimony of each witness, including a copy of all exhibits and other documentation that the individual or entity proposes to present to the City Council for its consideration, not less than five (5) working days prior to the public hearing.

C2) (g) Testimony must be relevant to the issues being heard before the City Council, and not be repetitious. If the testimony or exhibits to be offered by a customer or user appear to be unduly repetitious, the City Council may require all similarly interested customers or users to designate a spokesman, or may appoint a spokesman for them, who alone shall be allowed to present testimony or exhibits.

(h) City Council shall have discretion to limit the time for presentation by the Department and customers or users, their representatives or attorneys, desiring to present testimony or exhibits. The hearing shall be legislative in nature, but the City Council may allow such questioning, rebuttal or argument by the Utilities Department, customers or users, their attorneys or representatives, as it considers appropriate.

3. City Council may amend the proposed ordinance or resolution and revise any proposed base rate or regulation as a result of information presented at the public hearing.

D. Procedure to Change Certain Rates or Charges and Authorize Refunds by Resolution Without Notice and Public Hearing:

1. The City Council for good cause shown, may by resolution:

(a) Change rates or charges of the gas utility to reflect increased or decreased gas costs from the gas utility supplier; or

(b) Authorize a refund of costs or charges to customers of the gas utility; or

(c) Change any other fees, rates or charges that are not within the control or discretion of the City or the Department of Utilities.

2. In the cases noted above, City Council may authorize such changes without requiring notice and public hearing. The resolution adopting such changes will be considered an order of the City Council and shall specify the changes to be made and shall state (1) the circumstances necessitating the change without notice and public hearing, (2) the effective date of the changes and (3) the manner in which the changes shall be published.

E. Standard for Setting Rates: All rates, as established by the City Council shall be just,

- E) reasonable, sufficient and not unduly discriminatory. All rates and regulations shall be designated in tariff sheets as provided above and shall indicate an approval date and an effective date to be set by the City Council. (Ord. 83-223; Ord. 84-266)

12-3-402: REGULATIONS; PRIORITY OF:

- A. The use or connection to the natural gas supply system of the City by any person except a public utility shall be subject to one or more of the following as applicable:
1. All ordinances and resolutions of the City;
 2. The provisions of the currently effective tariff sheets governing natural gas service for the various classes, including regulations set forth herein;
 3. The most current edition of the City of Colorado Springs, Department of Utilities, gas division's service line design and construction specifications.
 4. Applicable provisions of the United States Department of Transportation as published in the Federal Register concerning natural gas; and
 5. Applicable provisions of the Uniform Mechanical Code as adopted by the Pikes Peak Regional Building Department.¹
- B. In the event of any inconsistency or conflict amount or between any of the foregoing sources of regulation, precedence shall be given in the order in which such sources of regulation are set out herein.
- C. Where the PUC retains jurisdiction of a utility matter, applicable decisions or rules of the PUC shall take precedence over the sources of regulations set out herein. (Ord. 80-148; Ord. 83-223; Ord. 84-266)

12-3-403: SERVICE; SPECIAL CONTRACT: The

City may provide by special contract for the use of a connection to the natural gas supply system of the City by institutions, plants, districts, governments, municipal corporations or other similar

users. If the contract is for the sale of natural gas by the City to another public utility, such contract shall be subject to approval by the Public Utilities Commission. (Ord. 83-233; Ord. 84-266)

12-3-404: SERVICE; EXCAVATIONS FOR: All

excavations for natural gas service installation or repair shall be performed in accordance with the City Code and the rules and regulations of the Division as applicable. Such excavations shall meet all applicable safety standards, including any requirements as to barricades and lights. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Department of Public Works of the City.² (Ord. 80-148; Ord. 84-266)

¹ See Part 2 of Article 2 of Chapter 16 of this Code.

² For excavation regulations, see Part 2 of Article 5 of Chapter 19 of this Code.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 5 CONNECTION AND INSTALLATION OF SYSTEM

SECTION:

- 12-3-501: Connection to System
- 12-3-502: Unauthorized Connection Prohibited
- 12-3-503: Unauthorized Connection; Recovery of User Charges
- 12-3-504: Main Lines; Installation
- 12-3-505: Service Lines; Installation and Fitter Certification
- 12-3-506: Extension and Installation; Conformance With Rules and Regulations

12-3-501: CONNECTION TO SYSTEM: The owner or developer of premises shall notify the Division when such premises are ready for connection to the natural gas distribution system of the City. No premises shall be supplied with permanent natural gas from the natural gas distribution system unless the same shall be designated by official street name and number and such official number shall be placed and maintained conspicuously thereon in accordance with the addressing requirements of this Code, and in particular, Sections 16-1-5 et seq. and 20-2-105J et seq. Connection of such premises shall only be performed upon approval by the Division. The City shall not be subject to any liability for any deficiency or defect which is not discovered by inspection nor shall the owner or developer of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect. (Ord. 80-148; Ord. 84-266; Ord. 86-106)

12-3-502: UNAUTHORIZED CONNECTION PROHIBITED: It shall be unlawful for any person to connect any line, pipe, hose or other instrument, device or contrivance to the natural gas supply system or any part thereof without the written consent of the Manager. In addition to any other penalties that may be imposed, the Court may order any person who is found guilty of violating the provisions of this Section to pay estimated user charges for the period during which such violation existed. (Ord. 80-148; Ord. 84-266; 1968 Code § 9-8.6)

12-3-503: UNAUTHORIZED CONNECTION RECOVERY OF USER CHARGES: In

addition to other penalties set out in this Chapter, estimated user charges may be recovered by the Department from any person who connects any line, pipe, hose or other instrument, device or contrivance to the natural gas supply system or any part thereof without the written consent of the Manager. (Ord. 80-148; Ord. 84-266)

12-3-504: MAIN LINES; INSTALLATION: The Manager shall determine the location, type and capacity of all main lines. Easements may be required where deemed necessary by the manager to ensure the safety or efficiency of the operation or maintenance of the natural gas supply system. (Ord. 80-148; Ord. 84-266)

12-3-505: SERVICE LINES; INSTALLATION AND FITTER CERTIFICATION:

- A. The Manager shall determine the location or locations at which any owner service line shall be connected to the gas distribution system of the City. Such connection shall be made without entering upon property other than the property of the owner so connected, unless an acceptable recorded utility easement is provided.
- B. The gas service line from the property line of the premise to be served, or the City's utility easement line, to the meter set shall be installed for the division by a certified service line fitter or the Gas Division at the expense of the owner of the premise and in accordance with the City of Colorado Springs' Gas Division specifications. The City of Colorado Springs' Gas Division shall be responsible for the inspection of all such installations. Upon inspection and approval, the Division shall be responsible for the operation and maintenance of the service line, except that maintenance due to leakage on service lines installed prior to the effective date of this Ordinance shall be by the Division at the expense of the owner of the premises being served.
- C. There is hereby established a service line fitter certification process to be administered by the Division. The Division shall review applications, conduct training courses, and administer exams

- C) as part of the service line fitter certification process. The certification process shall be conducted in accordance with the Department of Utilities, Gas Division's service line fitter certification procedures. The certification process shall be successfully completed by all persons engaging or proposing to engage in the installation of natural gas service lines destined to be connected to the City's natural gas supply system. Upon successful completion of the certification process, the applicant shall be certified as a service line fitter.
- D. Conditions for continued certification, recertification, and issuance of violations or revocation of certification shall be as set forth by the Department of Utilities, Gas Division's service line fitter certification procedures. The Department reserves the right to deny or revoke certification of any person determined by the Department to be inadequately qualified to install natural gas service lines.
- E. As a condition precedent to receiving natural gas service, the owner of the premise being served shall grant the Division permission to locate any portion of the natural gas supply system necessary to provide service, on or within the boundaries of the premise; and, further grant the Division the irrevocable right of access for the purpose of reading the meter, and installation, removal, operation and maintenance of all such portions of the natural gas supply system, including permission to make necessary excavation for such purposes. (Ord. 80-148; Ord. 84-266)

12-3-506: EXTENSION AND INSTALLATION; CONFORMANCE WITH RULES AND REGULATIONS: All extensions of the natural gas supply system, including the installation of new main lines and service lines, shall be in conformance with all applicable rules and regulations of the Division. The Manager in his discretion may refuse to extend service to any person failing to so conform with such rules and regulations. (Ord. 80-148; Ord. 84-266)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 6 GAS METERS AND REGULATIONS

SECTION:

- 12-3-601: Location
- 12-3-602: Multiple Meter Loops; Marking Required
- 12-3-603: Master Meters
- 12-3-604: Definitions
- 12-3-605: Unlawful Acts
- 12-3-606: Restitution
- 12-3-607: Evidence of Violations
- 12-3-608: Interruption of Service on Account of
Tampering, By-Passing or Unauthorized
Metering
- 12-3-609: Reconnection Charges for Tampering, By-
Passing or Unauthorized Metering

12-3-601: **LOCATION:** The user shall be required to provide a location for the City's meter set which is safe from damage and is accessible for reading, operation and maintenance. (Ord. 84-266; 1980 Code)

12-3-602: **MULTIPLE METER LOOPS; MARKING REQUIRED:** In the event that gas is served to more than one user at a single premise, through a multiple meter set, the owner shall be responsible for plainly marking each meter of the multiple meter set with permanent brass tag which identifies the apartment, office, room or other area served by each meter. (Ord. 80-148; Ord. 84-266)

12-3-603: **MASTER METERS:** In the event that gas is served through a master meter system, it shall be the responsibility of the owner of such premise to install, operate and maintain the gas piping and facilities downstream of the meter. Master meters shall be installed only upon the approval of the Division manager. Installation and operation of piping downstream of a master meter shall be in compliance with the current regulations of the Colorado PUC or other governing bodies which may be adopted by reference. (Ord. 83-223; Ord. 84-266)

12-3-604: **DEFINITIONS:** As used in this Part 6, the following definitions shall apply:

BY-PASS or BY-PASSING shall mean any line, pipe, hose or other instrument, device or contrivance connected to the natural gas supply system, service line, fuel piping or any part thereof in such a manner as to transport or distribute any such natural gas without passing through an authorized meter for measuring or registering the amount of such gas.

TAMPER or TAMPERING shall mean damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any regulator, meter or related instrument provided for measuring, controlling or registering the amount of natural gas passing through such meter.

UNAUTHORIZED METERING shall mean removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for natural gas service by a person other than an authorized employee of the Department. (Ord. 81-161; Ord. 84-266)

12-3-605: **UNLAWFUL ACTS:**

- A. It shall be unlawful for any person to install a by-pass without the express written authorization of the Manager.
- B. It shall be unlawful for any customer or the user at any premises knowingly to receive natural gas service by means of a by-pass which has not been authorized in writing by the Manager.
- C. It shall be unlawful for any person to tamper with a gas meter, regulator or related instrument without the express written authorization of the Manager.
- D. It shall be unlawful for any customer or the user at any premises knowingly to receive natural gas service by means of tampering which has not been authorized in writing by the Manager.

- E. It shall be unlawful for any person to engage in unauthorized metering.
- F. It shall be unlawful for any customer or the user at any premises knowingly to receive natural gas service by means of unauthorized metering which has not been expressly authorized in writing by the Manager. (Ord. 81-161; Ord. 84-266)

12-3-606: **RESTITUTION:** As a condition of granting probation, deferred prosecution, deferred sentence, or suspended sentence, the Court may order any person who is charged with or found guilty of, as the case may be, violating any of the provisions of Section 12-3-605 to pay as restitution estimated or actual user charges for the period during which the violation existed, the cost of repairing or replacing any damaged utility equipment, and any other costs incurred by the City related to the violation including, but not limited to, costs of investigation, disconnection, reconnection and service calls. (Ord. 81-161; Ord. 84-266)

12-3-607: **EVIDENCE OF VIOLATIONS:**

- A. Proof of the existence of any by-pass tampering or unauthorized metering, as prohibited in this Part 6, shall be deemed prima facie evidence that the user at the premises where such by-pass, tampering or unauthorized metering is proved to exist had knowledge of the by-pass, tampering or unauthorized metering if it is proved that the user is an occupant of the premises and that said user had access to the gas meter or other utility equipment where the by-pass, tampering or unauthorized metering is proved to exist.
- B. Proof of the existence of any by-pass, tampering or unauthorized metering, as prohibited by this Part 6, shall be deemed prima facie evidence that the customer had knowledge of the by-pass, tampering or unauthorized metering if it is proved that said customer controlled access to the gas meter, regulator or other related equipment where the by-pass, tampering or unauthorized metering is proved to exist. (Ord. 81-161; Ord. 84-266)

12-3-608: **INTERRUPTION OF SERVICE ON ACCOUNT OF TAMPERING, BY-PASSING OR UNAUTHORIZED METERING:** Tampering, by-passing or unauthorized metering, as defined in

Section 12-3-604, is subterfuge and constitutes a safety hazard. Such tampering, by-passing or unauthorized metering shall be grounds for immediate disconnection of service without notice to the customer or user at such premises, and service shall not be reconnected until any and all deficiencies in piping, connections, meters and/or other natural gas facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all applicable ordinances, rules and regulations, and until the requirements of Section 12-3-609 are met. (Ord. 81-161; Ord. 84-266)

12-3-609: **RECONNECTION CHARGES FOR TAMPERING, BY-PASSING OR UNAUTHORIZED METERING:** In order for gas service to be reconnected to premises where tampering, by-passing or unauthorized metering has occurred, the customer or user at the premises shall pay the following charges to the Department prior to the reconnection:

- A. A service charge calculated to compensate the Department for all reasonable expenses incurred on account of the tampering, by-passing or unauthorized metering, including, but not limited to, costs of investigation, disconnection, reconnection and service calls, but in no event less than thirty five dollars (\$35.00); and
- B. The cost of repairing or replacing any damaged utility equipment; and
- C. The actual or estimated user charges not previously billed to the customer as a result of the tampering, by-passing or unauthorized metering. (Ord. 81-161; Ord. 84-266)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 3 NATURAL GAS CODE

PART 7 CONTROL AND PROTECTION OF NATURAL GAS SYSTEM

SECTION:

12-3-701: Unlawful to Damage System
 12-3-702: Restitution
 12-3-703: Disconnection for Unsafe Condition
 12-3-704: Liability of City; Exclusion of

12-3-701: UNLAWFUL TO DAMAGE SYSTEM:

- A. It shall be unlawful for any person to interfere or tamper in any manner with any distribution line, service stub, service line, meter set or any appurtenance thereof connected to or part of the natural gas system without prior written permission obtained from the Manager.
- B. It shall be unlawful for any person to damage, impair or deface any part, appliance or appurtenance of the natural gas distribution system of the City.
- C. It shall be unlawful for any person to excavate, obstruct or disconnect any distribution facility of the City, or to do any act or thing to divert, damage or otherwise impede or hinder, or tend to impede or hinder, the flow of natural gas through the natural gas distribution system of the City.
- D. It shall be unlawful for any person to excavate with other than hand tools within eighteen inches (18") of any underground natural gas pipeline or facility. Excavation near such facilities shall be in combination with careful probing. For the purpose of this subsection, "hand tools" shall include only nonmotorized tools.
- E. It shall be unlawful for any person to excavate on a premise located within the City's certified natural gas service area which is served by natural gas, or within a street right of way or utility easement which contains natural gas facilities owned by the City without first requesting utility locations from the City's central locating unit at least two (2) working days prior to beginning the excavation.

- F. In the event that piping or equipment attached to or part of the City's gas distribution system is exposed or damaged, it shall be the responsibility of the party causing exposure or damage to immediately notify the gas division of such exposure or damage, and further, to provide for the continued exposure of said facilities until the City can appropriately inspect or repair its facilities. (Ord. 80-148; Ord. 84-266)

12-3-702: **RESTITUTION:** As a condition of granting probation, deferred prosecution, deferred sentence, or suspended sentence, the Court may order any person who is charged with or found guilty of, as the case may be, violating any of the provisions of Section 12-3-701 to pay as restitution estimated or actual user charges for the period during which the violation existed, the cost of repairing or replacing any damaged utility equipment, and any other costs incurred by the City related to the violation including, but not limited to, costs of investigation, disconnection, reconnection and service calls. (Ord. 84-266)

12-3-703: **DISCONNECTION FOR UNSAFE CONDITION:** The owner of the premises served by the gas distribution system of the City shall maintain all natural gas piping downstream of the meter set to the end use at the premises and shall keep other gas equipment and facilities of such premises in safe condition in accordance with all ordinances, rules and regulations of the City or any other governmental authority having jurisdiction thereof; provided, however, that all the natural gas supply system installed, owned or operated by the Gas Division shall be maintained by the Division. In the event that the Manager determines that any gas piping or other natural gas equipment or facility on a premises is unsafe, service to such premises may be disconnected and shall not be reconnected until the unsafe condition has been corrected by the owner of such premises and approved by the Division. (Ord. 80-148; Ord. 84-266)

12-3-704: LIABILITY OF CITY; EXCLUSION OF:

The City shall not be liable to any person for failure to maintain gas service during repairs or extensions to the gas supply system, nor shall the City be liable where such failure is caused by or results from a strike, an act of God, an unavoidable accident or other contingency beyond the control of the City. (Ord. 80-148; Ord. 84-266)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 1 TITLE

SECTION:

12-4-101: Title

12-4-101: **TITLE:** The title of this Article shall be "The Water Code" and this Article may be cited as such. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 2 DEFINITIONS

SECTION:

12-4-201: Definitions

12-4-201: **DEFINITIONS:**¹ Unless the context specifically indicates otherwise, the following terms, as used in this Article, shall have the meanings hereinafter designated:

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| <p>A. ARTICLE or THIS ARTICLE means Article 4 of Chapter 12 of the Code of the City of Colorado Springs.</p> <p>B. DISTRIBUTION MAIN means that portion of the water supply system which transmits and distributes water of the City from treatment or storage facilities to users, excluding service lines.</p> <p>C. DIVISION or WATER DIVISION means the operating Division of the Department of Utilities which is responsible for the operation and maintenance of the water supply system.</p> <p>D. MANAGER or WATER DIVISION MANAGER means the Manager of the Water Division of the Department of Utilities, or his designated representative.</p> <p>E. MASTER PLUMBER means a master plumber as defined in and licensed pursuant to Article 58 of Title 12 of the Colorado Revised Statutes 1973, as the same may be now or hereafter amended, and registered with the Regional Building Department pursuant to Section 16-6-701 of this Code.²</p> <p>F. SERVICE LINE means the water line extending from the premises up to and including the connection to the distribution main.</p> <p>G. TRANSMISSION MAIN means that portion of the water supply system which transports untreated water to water treatment facilities.</p> | <p>H. USER means any person who uses, takes water from or is connected to the water supply system of the City.</p> <p>I. WATER SUPPLY SYSTEM or WATER SYSTEM means:</p> <ol style="list-style-type: none"> 1. Any and all rights, property and obligations of the City concerning water and water supply facilities; 2. Any and all devices, facilities, structures, equipment or works owned or used by the City for the purpose of the collection, storage, transmission, treatment, regulation or distribution of potable water, including distribution mains, pumping facilities, metering facilities, pressure regulation facilities and their appurtenances and excluding service lines; 3. Any and all standby or contingency equipment, facilities or material which may be necessary to provide reliable water service; 4. Any and all devices, facilities, structures, equipment or works owned or used by the City for the purpose of the transmission, storage, treatment or distribution of water, including water treatment plants, pumping facilities, reservoirs, transmission lines and their appurtenances; 5. Any and all land or sites owned or used by the City, for the purpose of providing water to users including streams or other waters which contribute to the water supply of the City and any area in or along such waters or within five (5) miles upgrade of any point from which water is taken by the City,³ and any and all watershed areas; and 6. Any and all extensions, improvements, additions, alterations or remodeling thereof. |
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1. For definitions of general application, see Section 1-1-203 of this Code. For other definitions applicable to Chapter 12 generally, see Section 12-1-101.

2. Ed. Note: The Regional Building Department in its present status was created April 27, 1976, pursuant to an agreement between the City of Colorado Springs and the County of El Paso. See Section 16-1-201 of this Code.

3. Ed. Note: For the jurisdiction of the City concerning its water system, see C.R.S. 1973 § 31-15-707(1)(b).

*CHAPTER 12 DEPARTMENT OF UTILITIES***ARTICLE 4 WATER CODE***PART 3 WATER DIVISION***SECTION:**

12-4-301: Responsibility of Division

12-4-302: Responsibility of Manager

12-4-303: Rules and Regulations; Adoption of

12-4-301: RESPONSIBILITY OF DIVISION: The Water Division shall be responsible for the water supply system serving the City and such other areas as authorized by the City Council. (Ord. 80-148)

12-4-302: RESPONSIBILITY OF MANAGER: The Manager of the Water Division shall be responsible for the management of the water system of the City and all of the property appertaining thereto. He shall see that such system and such property are kept in good working order and repair. He shall ensure proper compliance with all local, State and Federal regulations for the collection, transmission, treatment and distribution of water and shall perform all other duties in connection with such system as may be required of him by the Director of Utilities. (Ord. 80-148)

12-4-303: RULES AND REGULATIONS; ADOPTION OF: Rules and regulations adopted by the Manager pursuant to Section 12-1-203A of this Chapter shall pertain to, but shall not be limited to, standards and requirements for installation, construction, maintenance, repair or replacement of property appertaining to the water system, standards and requirements for providing water service to the public and standards and requirements for ensuring the potable and palatable quality of water. In establishing such rules and regulations, the Manager shall seek to provide for the safe and efficient operation of the water supply system, for a water supply sufficient to satisfy the public needs, and for water quality, by protecting the water supply and the public from polluting or unsanitary substances and conditions. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 4 WATER SERVICE

SECTION:

12-4-401: Service; Application for
 12-4-402: Service Outside City; Policy
 12-4-403: Service Outside City; Application for
 12-4-404: Service; Special Contract

12-4-401: SERVICE; APPLICATION FOR:

- A. Any person desiring to connect a service line to the water supply system of the City shall make application to the Division for water service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all ordinances, regulations or rules concerning the water system. The Manager shall review and approve or disapprove the application as complying or failing to comply with all ordinances, regulations or rules concerning the water system of the City. Upon approval by the Manager of such application, all applicable fees and charges shall be paid.
- B. No premises shall be supplied with permanent water from the water system unless the same shall be designated by official street name and number and such number shall be placed and maintained conspicuously thereon, in accordance with the addressing requirements of this Code, and in particular, Sections 16-1-5 et seq. and 20-2-105J et seq. (Ord. 80-148; Ord. 86-106)

12-4-402: SERVICE OUTSIDE CITY; POLICY:

- A. The policy of the City relating to the furnishing of water service to property lying outside the corporate limits of the City is set forth in Article 2 of Chapter 15 of this Code. The City expressly reserves the right, as may be limited by State or Federal law, to impose such conditions as it may see fit relative to the furnishing of such service and to refuse such service in its discretion.

- B. All provisions of this Article apply to those areas outside the corporate limits of the City, except those areas covered by a contract which expressly establishes other rules for the area served under the contract. (Ord. 80-148)

12-4-403: SERVICE OUTSIDE CITY; APPLICATION FOR:

Any person desiring to connect a service line which is located outside the corporate limits of the City to the water supply system of the City shall comply fully with Article 2 of Chapter 15 of this Code. Such person shall then make application to the Division for water service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all ordinances, regulations or rules concerning the water system. The Manager shall review and approve or disapprove the application as complying or failing to comply with all ordinances, regulations or rules concerning the water system of the City. (Ord. 80-148)

12-4-404: SERVICE; SPECIAL CONTRACT:

The City may provide by contract for the use of and connection to the water supply system of the City by governmental institutions, organized water districts, municipal corporations or other similar users. Such contracts shall expressly provide for compliance by such users with ordinances, regulations and rules of the City concerning the water supply system. Such contracts shall be further subject to such other terms and conditions as the City Council shall see fit to impose. Such contracts, and the terms, conditions and/or renewals thereof, existing on the effective date of this Article shall remain in full force and effect.¹ (Ord. 80-148)

¹ The effective date of this provision was September 23, 1980.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 5 CONNECTION AND INSTALLATION OF SYSTEM

SECTION:

- 12-4-501: Connection Required
- 12-4-502: Connection Requirement; Exception
- 12-4-503: Connection Requirement; Violation
- 12-4-504: Connection; Permits
- 12-4-505: Unauthorized Connections Prohibited
- 12-4-506: Connection to System; Exclusion of Liability
- 12-4-507: Installation; Excavations for
- 12-4-508: Service Line; Separate for Each Building; Exceptions
- 12-4-509: Service Line; Conformance to Rules and Regulations
- 12-4-510: Service Lines; Standards for
- 12-4-511: Service Line; Maintenance of
- 12-4-512: Mains and Lines; Manner of Extension
- 12-4-513: Mains and Lines; Compliance with Subdivision Regulations
- 12-4-514: Existing Lines; Conditions for Use
- 12-4-515: Construction; Requirements for Commencement and Completion
- 12-4-516: Disconnection

12-4-501: CONNECTION REQUIRED: The owner of any house or other building occupied for business or residence purposes, situated within the City and abutting any street, alley or right of way in which there is now located or may in the future be located a water distribution main of the City, is hereby required at such owner's expense to connect such building by means of a service line directly with the distribution main in accordance with the provisions of this Article. The point or points at which connection is made to the distribution main shall be determined by the Manager. (Ord. 80-148)

12-4-502: CONNECTION REQUIREMENT; EXCEPTION:

- A. Connection to the water supply system of the City shall not be required for any property which is served by an existing well or other

- A) water supply system, which system is approved by the El Paso County Health Department and which system serves said property in substantially the same manner as it would be served by the water supply system of the City.
- B. This Section shall apply solely to property served by an existing well or other water supply system prior to connection to the water supply system of the City, and shall not be construed to permit any person already connected to the water supply system of the City, whose property may subsequently be served by a well or other water supply system, to disconnect from the water supply system of the City. (Ord. 80-148)

12-4-503: CONNECTION REQUIRED; VIOLATION: It shall be unlawful for any person who owns any house or other building occupied for business or residence purposes situated within the City to fail to connect such house or building to a water supply system in accordance with the requirements of this Part. (Ord. 80-148)

12-4-504: CONNECTION; PERMITS: No connection to the water supply system of the City shall be made without first obtaining a permit therefor issued by the Department of Utilities. (Ord. 80-148)

12-4-505: UNAUTHORIZED CONNECTIONS PROHIBITED: It shall be unlawful for any unauthorized person to uncover, make any connection with or opening into, use, alter or disturb any distribution main or appurtenance thereof without first obtaining written permission from the Manager. Any such connection shall be made in compliance with the provisions of this Article. (Ord. 80-148)

12-4-506: CONNECTION TO SYSTEM; EXCLUSION OF LIABILITY: The City

shall not be subjected to any liability for any deficiency in the installation which is not discovered by inspection, nor shall the owner of the premises be absolved from liability for such deficiency and any resulting damage or from responsibility to correct such deficiency. (Ord. 80-148)

12-4-507: INSTALLATION; EXCAVATIONS FOR:

All excavations for water service installation or repair shall be performed in accordance with the Code of the City and the rules and regulations of the Division as applicable. Such excavations shall meet all applicable safety standards, including any requirements as to barricades and lights. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Department of Public Works of the City.¹ (Ord. 80-148)

12-4-508: SERVICE LINE; SEPARATE FOR EACH BUILDING; EXCEPTIONS:

- A. A separate and independent service line shall be provided for every building.
- B. Where one building stands at the rear of another on an interior lot which cannot be subdivided, and where no service line is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the service line of the front building may be extended to the rear building and the whole considered as one water service.
- C. Multi-family or commercial or industrial complexes having more than one building on a single platted lot owned by one person may have the individual buildings connected to a single common service line, unless and until such lot is resubdivided or the buildings otherwise become separately owned in which case independent connections shall be made.
- D. The City does not assume any obligation nor acquire any liability for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the water supply system as aforementioned. (Ord. 80-148)

12-4-509: SERVICE LINE; CONFORMANCE TO RULES AND REGULATIONS: The size,

slope, alignment and materials of construction of a service line, and the methods to be used in excavating, placing of the pipe, jointing, testing, backfilling and inspection of a trench shall all conform to the requirements of the Building and Plumbing Codes² and Water Service Standard Specifications and other applicable rules and regulations of the City. Additionally, all existing and new service lines shall conform to the requirements of the water service quality control regulations. (Ord. 80-148; Ord. 85-93)

12-4-510: SERVICE LINES; STANDARDS FOR:

- A. All service lines for connection to the water supply system of the City shall be installed in accordance with the provisions of this Article and of Water Service Standard Specifications.
- B. All service lines and pipes appurtenant thereto which are laid in streets, alleys or other public grounds shall be of type "K" copper.
- C. All service lines shall be laid at such depth that the top of any such line throughout its length is not less than five feet (5') below the finished surface of the ground.
- D. All service lines shall be connected to a curb stopcock so that water may be shut off from the service line at any time. Such stopcock shall be level with the adjacent ground surface and shall be protected by an adjustable iron box or cylinder not less than five feet (5') in length. All stopcocks shall be furnished by the City and paid for by the applicant for water service.
- E. A water pressure regulator shall be installed in each service line connected to a distribution main owned by the City. (Ord. 80-148)

12-4-511: SERVICE LINE; MAINTENANCE OF:

Responsibility for the maintenance and repair of the service line and appurtenances thereto, from and including the connection from the distribution main to the premises served, shall be borne jointly by the owner of such premises and the City as set out in Water Service Standard Specifications. The owner shall keep the service line and all pipes and fixtures on his premises in good repair so as to prevent waste of water. The owner must secure all required permits for construction

1. For excavation regulations, see Part 2 of Article 5 of Chapter 19 of this Code.

2. For Uniform Plumbing Code, see Section 16-2-502 of this Code.

purposes and shall be responsible for returning the public right of way and the street to acceptable City standards. Where more than one premises are connected to a single service line, the owners of the respective premises shall be jointly and severally responsible for maintenance and repair of the service line. (Ord. 80-148)

12-4-512: MAINS AND LINES; MANNER OF EXTENSION: Distribution mains to supply and distribute water to and throughout areas or additions shall be extended by the owner or developer of premises to be served by such lines from the existing distribution main to the point or points of the property line of such premises farthest from the existing distribution main. Such extension requirement may be waived by the Manager in the event that he determines that extension to the farthest point from the existing distribution main is not necessary for the efficient expansion of the water supply system. In any event, distribution mains shall be extended by the owner or developer of premises to be served by such mains to a point which permits the shortest possible service line between the distribution main and the property line of the premises served thereby. Thereafter said distribution mains shall be extended to adjoining premises in compliance with the latest edition of Standard Specifications for Water Main Installations as promulgated, supplemented and amended by the Manager pursuant to Part 3 of this Article. Extensions shall not be made for remote or isolated service unless the applicant requesting such service shall provide for the cost of such extension to the point of service and such extension is approved by the Manager. (Ord. 80-148)

12-4-513: MAINS AND LINES; COMPLIANCE WITH SUBDIVISION REGULATIONS: No water distribution main or service line shall be laid or placed in any proposed addition to or subdivision within the City until said addition or subdivision is platted and approved in accordance with Chapter 15 of this Code.¹ (Ord. 80-148)

12-4-514: EXISTING LINES; CONDITIONS FOR USE: Existing service lines and/or distribution mains may be used in connection with new buildings only when they are found by the

Manager to meet all requirements of this Article. (Ord. 80-148)

12-4-515: CONSTRUCTION; REQUIREMENTS FOR COMMENCEMENT AND COMPLETION: Construction of any building or facility to be served by a connection with the water supply system of the City shall be commenced within one hundred twenty (120) days from the date of approval or payment of the charges set out in this Part and such construction shall be pursued to completion without suspension or abandonment, as provided in the City's Building Code.² Failure to comply with the above requirements shall result in cancellation of the connection permit and the return of the connection charge less expenses incurred by the Division to determine such noncompliance. (Ord. 80-148)

12-4-516: DISCONNECTION:

- A. For the purposes of this Section, "customer" shall mean the person designated on Department of Utilities records as the person responsible for payment of charges incurred for the use at his premises of the water supply system of the City.
- B. The Division shall disconnect the service line of premises from the distribution main of the City upon request of the customer. Such disconnection shall be accomplished in a manner which ensures against leakage of water.
- C. In the event that the premises of a customer are disconnected from the water supply system of the City, such customer shall be responsible for all costs of such disconnection. In no event shall taps serving the premises of any customer be transferred to another premises.
- D. In the event that a customer desires to install a new service line for premises for which an existing service line is available, the new service line shall not be connected until the existing service line is disconnected from the distribution main.
- E. 1. In the event that a previously used service line is not used for a continuous period of one year or more, the Department of Utilities may,

1. Ed. Note: Waiver of subdivision requirements may be granted only by the City Council under the provisions of Part 13 of Article 3 of Chapter 15 of this Code.

2. Ed. Note: The Uniform Building Code, published by the International Conference of Building Officials, is the City's Building Code. See Section 16-2-102 of this Code. The Uniform Building Code contains substantially the same provisions set forth here.

E,1) at the customer's expense, shut off such service line at the corporation stopcock; provided, however, the shut off may be delayed if the customer states in writing that the service line will be in regular use within a specific time agreed to by the Department. If a customer shall fail or refuse to pay the cost of such shut off within thirty (30) days after billing, then in addition to any other remedies that may be available to the Department, such cost may be assessed against the property formerly served in the same manner as development charges may be assessed against the property.¹

2. In the event that a previously used service line is not used for a continuous period of five (5) years or more, such service line shall be deemed to be abandoned, unless a letter of agreement is entered into between the customer and the Department. When a service line is deemed to be abandoned, there shall be no further obligation on the Department to provide water to that service line. The obligation to serve shall not again arise except upon reapplication in accordance with all ordinances then applicable and the payment of all fees due at the time of the reapplication. (Ord. 80-148)

1. See Section 12-1-304 of this Chapter.

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 6 COSTS AND CHARGES

SECTION:

12-4-601: Water Facilities; Cost
 12-4-602: Installation Cost
 12-4-603: Connection Charge
 12-4-604: Tapping Charge
 12-4-605: Water Development Charge
 12-4-606: Recovery Agreement Charge
 12-4-607: Charges; Credit for
 12-4-608: Charges; Renewal of Service
 12-4-609: Rates and Charges; Computation of
 12-4-610: Rates and Charges; Special
 12-4-611: Temporary Service; Charges for
 12-4-612: Perpetual Lien
 12-4-613: Water Distribution Facilities
 Development Charge

12-4-601: WATER FACILITIES; COST:

- A. A property owner or developer shall be responsible for the cost and construction of all water distribution mains, up to and including twelve inches (12") in diameter, and the appurtenances thereto, including any required fire hydrants necessary to serve the property or development upon approval by the City of the plans and specifications of such facilities and appurtenances. The City shall inspect and approve the actual construction prior to connection of such facilities.
- B. When an owner or developer finds it necessary to construct water supply and distribution facilities through or adjacent to unserved or undeveloped lands, such owner or developer shall pay the entire cost of such facilities. However, the City shall agree in writing with such owner or developer to assist in the collection of a prorata share of the actual cost of such facilities from the owner of such unserved or undeveloped lands at the time of connection to the facilities and refund such cost to the owner or developer.

- C. In the event that water pumping facilities are required, the cost of such facilities shall be the responsibility of the owner or developer of the property served; provided, however, that the Department of Utilities shall provide the necessary engineering at no expense to the owner or developer. Where it appears that more area or lands may be served by the water pumping facilities, the City may require a greater pumping capacity than necessary to service the initial development. Where such greater capacity is required, the City shall agree in writing with the owner or developer to assist in the collection of a prorata share of the actual cost of such facilities from the owner of property served by such facilities at the time of connection to the water system and shall refund such share of the cost to the owner or developer.

- D. 1. An owner or developer who is a party to a recovery agreement with the City shall provide a complete detailed summary of all construction costs to the Division within ninety (90) days after completion of construction. Failure to provide such construction cost information shall relieve the City of responsibility to assist in the collection of a prorata share from subsequent connectors; provided, nothing contained herein shall relieve a subsequent connector from the obligation to pay a reasonable cost of construction, such reasonable cost to be determined by the Manager on the basis of the best information available to him at the time.

2. The owner or developer and the Manager shall jointly determine the service area of the facilities constructed by the owner or developer and shall jointly determine a recovery charge, which normally shall be on per-front-foot basis. In the event that the owner or developer and the Manager shall fail to agree, the determinations of the Manager shall be subject to review by the Director, whose decision shall be appealable to City Council.

3. The owner or developer's right to reimbursement under the provisions of the

- D,3) recovery agreement shall not exceed the actual construction costs for a period of twenty (20) years from execution of the agreement unless the City Council shall approve a contract period exceeding twenty (20) years.
- E. The Manager may require that a property owner or developer construct a distribution main larger than that required for his needs for the service of lands beyond the property or development. In the event the Manager determines that construction of a distribution main over twelve inches (12") in diameter is necessary for the efficient expansion of the water supply system, an owner or developer served thereby shall be responsible for the costs for installation of such main, except that the City shall be responsible for the difference between the cost of materials for a twelve inch (12") main and the cost of such materials for such larger main. (Ord. 80-148)

12-4-602: INSTALLATION COST: All costs and expenses incidental to the installation and connection of a service line from the distribution main to the premises shall be borne by the owner of such premises. The owner shall indemnify the City for any loss or damage to the City that may directly or indirectly be occasioned by installation of such service line. (Ord. 80-148)

12-4-603: CONNECTION CHARGE: In each lot, area, territory, subdivision or addition, inside or outside the corporate limits of the City, for which a request for water service connection or addition to the water supply system of the City shall be made, there is and shall be a connection charge for each service line in said area. The connection charge shall consist of a tapping charge and a water development charge and, if the area to be served is subject to an outstanding recovery agreement, shall also include a recovery agreement charge. (Ord. 80-148)

12-4-604: TAPPING CHARGE:

- A. A tapping charge shall be assessed for each connection of a service line to the distribution main and shall be collected prior to issuance of a tapping permit. Application for such permit shall be made to the Department of Utilities and upon approval of such application, the permit shall only be issued to a master plumber. Such charge shall defray the cost of materials, inspection and labor incident to connection of

- A) the service line.
- B. The amount of the tapping charge imposed by this Section shall be based upon the type and size of the main and the size of the service line in accordance with a schedule which shall be effective upon adoption by resolution of City Council. (Ord. 80-148)

12-4-605: WATER DEVELOPMENT CHARGE:

- A. A water development charge shall be assessed for each new connection to the water supply system of the City to partially compensate the City for the base water supply required for each service. The fees and charges provided herein shall only be increased by the same percentage as the average residential charge for water service is increased and to be effective upon such increase.
- B. A water development charge shall be assessed for each single-family, commercial or industrial service, and shall be collected prior to the issuance of a building permit, in amounts as follows:

<u>Inside Corporate Limits</u>			
<u>Meter Size</u>	<u>Base Water Dev. Chg.</u>	<u>Water Procurement Chg.</u>	<u>Total Water Dev. Chg.</u>
¾" or less	\$ 2,703.00	\$ 333.00	\$ 3,036.00
1"	3,152.00	388.00	3,540.00
1½"	4,698.00	580.00	5,278.00
2"	6,278.00	774.00	7,052.00
3"	12,573.00	1,549.00	14,122.00
4"	20,740.00	2,556.00	23,296.00
6"	47,115.00	5,806.00	52,921.00
<u>Outside Corporate Limits</u>			
<u>Meter Size</u>	<u>Base Water Dev. Chg.</u>	<u>Water Procurement Chg.</u>	<u>Total Water Dev. Chg.</u>
¾" or less	\$ 4,055.00	\$ 500.00	\$ 4,555.00
1"	4,728.00	582.00	5,310.00
1½"	7,047.00	870.00	7,917.00
2"	9,417.00	1,161.00	10,578.00
3"	18,860.00	2,324.00	21,184.00
4"	31,110.00	3,834.00	34,944.00
6"	70,673.00	8,709.00	79,382.00

Commercial service shall include, but shall not be limited to, over-night recreational parks, campgrounds, hotels, motels, and all other places of public accommodation.

- C. A water development charge shall be assessed for each dwelling unit of all common wall multi-family residential construction, which may be

- C) described as an apartment, condominium, townhouse, stacked housing or other name form for multi-family housing, permanent or transient, and each dwelling unit in a mobile home park as defined in Section 14-1-109, which shall be collected prior to issuance of a building permit, in amounts as follows:

<u>Inside Corporate Limits</u>		
<u>Base Water Dev. Chg.</u>	<u>Water Procurement Chg.</u>	<u>Total Water Dev. Chg.</u>
\$1,541.00	\$189.00	\$1,730.00
<u>Outside Corporate Limits</u>		
<u>Base Water Dev. Chg.</u>	<u>Water Procurement Chg.</u>	<u>Total Water Dev. Chg.</u>
\$2,312.00	\$284.00	\$2,596.00

- D. The charges referred to in this Section shall be applicable to any increase in size of existing service lines. The charge shall be assessed for any such increase in an amount representing the difference between the charge imposed for the existing meter size and the charge imposed for the size of the proposed meter. Such charge shall be collected prior to issuance of a tapping permit.
- E. Payment of water development charges provided herein shall be payable in full in cash at the time the building permit is issued or as directed by Council. Such charges shall not be waived for any governmental, quasi-governmental, nonprofit organization, or any other user requesting connection to the water supply system of the City.
- F. Requests for a refund of charges paid under this Section shall be made in writing to the Department of Utilities within one year of payment thereof. (Revised Ord. 85-252)

12-4-606: RECOVERY AGREEMENT CHARGE: A recovery agreement charge may be assessed for each connection to or use of a distribution main or other facility which is the subject of a recovery agreement between the City and the person responsible for the construction of said main or facility. Consistent with such agreement, such charge shall be in an amount which represents a prorata share of the cost of construction of the main

or facility and shall be collected prior to issuance of a building permit. (Ord. 80-148)

12-4-607: CHARGES; CREDIT FOR:

- A. In the event that a property owner or developer, with the approval of the Manager, connects a new building or structure to a previously existing service line, without changing the size of such service line, such owner or developer shall not be required to pay a water development charge.
- B. In the event that an owner or developer replaces an existing service line with a larger service line, such owner or developer shall pay a full tapping charge and a water development charge in an amount representing the difference between the amount assessed on the basis of the existing tap and the amount assessed on the basis of the larger tap. Such owner or developer shall not pay a recovery agreement charge.
- C. In the event that an owner or developer replaces an existing service line with a smaller service line, such owner or developer shall not be entitled to a refund of the permit charge or the water development charge. (Ord. 80-148)

12-4-608: CHARGES; RENEWAL OF SERVICE: In the event that the water service shall be turned off and discontinued for any building or premises for failure to pay any charges due and arising for such service, a charge may be assessed in such amount as Council may determine against the owner or occupant of such building or premises before the water service shall be renewed. (Ord. 80-148)

12-4-609: RATES AND CHARGES; COMPUTATION OF:

- A. For premises located within the corporate limits of the City, the rates and charges for water supplied to users and measured by meter shall be as follows:

1. Rates:

Customer Charge - per meter,
per day \$.0913

Commodity Charge - each 100 cu. ft.
used per 100 cu. ft. 1.3853

- A) 2. The Minimum Daily Charges Regardless of Water Used:

<u>Meter Size</u>	<u>Minimum Daily Charge</u>
5/8" - 1"	\$.0913
1 1/2"	.6378
2"	.9111
3"	2.1408
4"	3.7348
6"	7.4694
8"	10.6575
10"	14.5743

- B. For premises located without the corporate limits of the City, the rates and charges for water supplied to users and measured by meter shall be as follows:

1. Rates:

Customer Charge - per meter,
per day \$.1370

Commodity Charge - each 100 cu. ft.
used per 100 cu. ft. 2.0780

2. The Minimum Daily Charges Regardless of Water Used:

<u>Meter Size</u>	<u>Minimum Daily Charge</u>
5/8" - 1"	\$.1370
1 1/2"	.9567
2"	1.3667
3"	3.2112
4"	5.6022
6"	11.2041
8"	15.9863
10"	21.8615

(Revised Ord. 85-252)¹

12-4-610: **RATES AND CHARGES; SPECIAL:**

- A. Discounts. None.
- B. Surcharges. For premises located within the corporate limits of the City which utilize pumping

- B) facilities to accomplish adequate water service, a surcharge may be imposed in an amount which represents the cost of operations and maintenance of such facilities.

- C. Special Bulk Rates by Contract. The following rate is hereby established for Ft. Carson, Peterson Air Force Base and Air Force Academy of \$0.840 for each one hundred (100) cubic feet of water. Similar bulk rates shall be available only to customers using in excess of twenty million (20,000,000) cubic feet of water per year and available by special bulk rate contract. (Revised Ord. 85-252)

12-4-611: **TEMPORARY SERVICE; CHARGES FOR:**

- A. The Division may establish temporary water service to supply water for use in connection with the construction, alteration or repair of buildings or other similar activities. Any person desiring such service shall make written application to the Department of Utilities.
- B. Water service furnished by the City pursuant to this Section shall be metered to measure the amount of water consumed unless the Manager determines that such amount may be otherwise adequately determined. A water meter shall be furnished by the City and shall be returned to the City upon termination of the service.
- C. Persons furnished water service pursuant to this Section shall pay costs incidental to such service and shall pay user charges for the amount of water consumed in amounts as City Council shall designate by resolution. (Ord. 80-148)

12-4-612: **PERPETUAL LIEN:** Until paid, all charges imposed by this Part 6 shall constitute a perpetual lien on and against the property connected to or served by the water system of the City. Such charges shall be determined and collected as provided in Article 1 of this Chapter. (Ord. 82-16)

12-4-613: **WATER DISTRIBUTION FACILITIES DEVELOPMENT CHARGE:**

- A. A water distribution facilities development charge shall be assessed for each new dwelling unit, commercial or industrial connection to the water supply system of the City to provide necessary revenue for the engineering and construction of finished water transmission mains, oversizing of distribution mains, distribution storage, and other necessary water distribution facilities which are to be provided by the Department of Utilities.
- B. A water distribution facilities development charge shall be assessed for each single-family, commercial or industrial service, to be connected to the water supply system, and shall be collected prior to issuance of a building permit, in the amounts as follows:

Meter Size	Inside Corporate Limits	Outside Corporate Limits
¾" or less	\$ 696.00	\$ 1,044.00
1"	811.00	1,217.00
1½"	1,210.00	1,815.00
2"	1,617.00	2,426.00
3"	3,237.00	4,856.00
4"	5,339.00	8,009.00
6"	12,130.00	18,195.00

- C. A water distribution facilities development charge shall be assessed for each dwelling unit of all common wall multi-family, residential construction which may be described as an apartment, condominium, townhouse, stacked housing or other name form for multi-family housing, permanent or transient, and each dwelling unit in a mobile home park as defined in Section 14-1-109, to be connected to the water supply system, and shall be collected prior to issuance of a building permit, in amounts as follows:

Inside Corporate Limits	Outside Corporate Limits
\$397.00	\$596.00

- D. The water distribution facilities development charges provided herein shall be reviewed and adjusted as necessary by the City Council. These charges shall be accounted for in such a manner as to allow for adequate review and analysis of their source and disposition.

- E. Payment of the water distribution facilities development charge provided herein shall be payable in full in cash at the time the building permit is issued. Such charges shall not be waived for any governmental, quasi-governmental nonprofit organization, or any other user requesting connection to the water supply system of the City.
- F. The charges referred to in this Section shall be applicable to any increase in size of an existing water meter. A charge shall be assessed for any such increase in an amount representing the difference between the charge which would be imposed for the existing meter size and the charge imposed for the size of the proposed meter. Such charge shall be collected prior to issuance of a tapping permit.
- G. Requests for a refund of charges paid under this Section shall be made in writing to the Department of Utilities within one year of payment thereof. (Ord. 85-2; Ord. 86-227)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 7 REGULATIONS FOR USE OF WATER

SECTION:

12-4-701: Use; Determination by Council
 12-4-702: Use; Restrictions First Applied to
 Outside Users
 12-4-703: Conditions of Service
 12-4-704: Unlawful to Steal Water
 12-4-705: Unlawful Taking; Evidence of
 12-4-706: Unlawful to Take Water from Fire Hydrant
 12-4-707: Admission to Property
 12-4-708: Use of Water; Temporary Discontinuance
 12-4-709: Liability of City; Exclusion of

12-4-701: **USE; DETERMINATION BY COUNCIL:**

In order to maintain adequate water pressure and water supply and/or proper water quality, the City Council may restrict or deny the use of water by any user. Such restrictions may include, but shall not be limited to, designation of the type and number of uses of water which shall be permitted and/or any other restriction which the Council may deem necessary. (Ord. 80-148)

12-4-702: **USE; RESTRICTIONS FIRST APPLIED TO OUTSIDE USERS:**

In the event that City Council determines that, owing to shortages of water caused by dry spells, adverse climatic conditions or other causes, restrictions as to the use of water are necessary to preserve an adequate supply of water, such restrictions may be applied first to users outside the corporate limits of the City as the City Council may direct. (Ord. 80-148; 1968 Code § 9-37)

12-4-703: **CONDITIONS OF SERVICE:**

A. All water furnished by the City in providing water service is and shall be on a license basis for one time use for lawful purposes on the customer's premises. The license herein granted may be modified, suspended or terminated as now or hereafter provided in the rules, regulations, reso-

A) lutions and ordinances of the City. Neither the granting of this license nor the use of water thereunder shall constitute or be deemed a relinquishment of the City's dominion and control of its water or of the title to any of its water or water rights. No act, circumstance or condition of such use or service shall be deemed to constitute a conveyance of the City's title or surrender of the City's dominion and control, or shall operate to create any vested or proprietary right, relating to the City's water or water rights, in any person whatsoever.

B. It shall be unlawful for any person to make any reuse or succession of uses of the water provided by the City, except as specifically allowed by the rules, regulations, resolutions or ordinances of the City, or in accordance with specific written permission from the Manager.

C. It shall be unlawful for any person to directly or indirectly sell or otherwise dispose of water service furnished by the City or to do any other act, except in accordance with that person's service application and service contract and with the rules, regulations, resolutions or ordinances of the City, or in accordance with specific written permission from the Manager. Nothing in the foregoing sentence shall prohibit a customer from establishing an appropriate allocation procedure for the purposes of receiving reimbursement from tenants or lessees for their proportionate share of water service used which allocation procedure shall be determined solely by contractual arrangement between the customer and the tenants or lessees, provided that the customer shall not receive total reimbursement in excess of the amount necessary to pay said customer's water bill. (Ord. 86-49)

12-4-704: **UNLAWFUL TO STEAL WATER:** It shall be unlawful for any person to take or use any water from the water supply system of the City, or to aid or abet any person in such taking or using,

otherwise than in compliance with this Article. (Ord. 80-148; 1968 Code § 9-52)

12-4-705: UNLAWFUL TAKING; EVIDENCE OF:

Occupancy of any premises for which the City supplies water for any purpose for any length of time greater than five (5) days, without entering into a water service agreement with the City, shall be deemed prima facie evidence of the unlawful taking or use of water by the owner of such premises. (Ord. 80-148; 1968 Code § 9-53)

12-4-706: UNLAWFUL TO TAKE WATER FROM FIRE HYDRANT:

It shall be unlawful for any person to take any water from any fire hydrant or hose pipe except for the extinguishment of fires, the cleaning or testing of fire apparatus or with the permission of the Manager. The Manager may take water from a fire hydrant when necessary for any purpose of the water system. (Ord. 80-148; 1968 Code § 9-67)

12-4-707: ADMISSION TO PROPERTY:

The Department shall have the right to enter upon the premises of the customer at all reasonable times for the purpose of inspecting, repairing or removing any or all equipment used in connection with its service, and removing its property when service has been discontinued. (Ord. 80-148; 1968 Code § 9-64)

12-4-708: USE OF WATER; TEMPORARY DISCONTINUANCE:

The City expressly reserves the right to temporarily shut off water from the distribution mains when necessary to repair any portion of the water supply system or to make connections to or extensions of the water supply system. The Department of Utilities shall endeavor to give reasonable notice of the proposed interruption of water service, whenever possible, to all users potentially affected thereby. (Ord. 80-148; 1968 Code § 9-65)

12-4-709: LIABILITY OF CITY; EXCLUSION OF:

The City shall not be liable to any person for failure to supply water during repairs or extensions of the distribution mains nor for other causes such as strikes, acts of God, unavoidable accidents or other contingencies beyond its control. The City shall not be liable to any person for failure to maintain water pressure sufficient for any proposed use of water. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 8 WATER METERS

SECTION:

- 12-4-801: Meters Required
- 12-4-802: Remote Readers
- 12-4-803: Meters; Installation and Maintenance
- 12-4-804: Metering Facilities; Installation and Location
- 12-4-805: Definitions
- 12-4-806: Unlawful Acts
- 12-4-807: Restitution
- 12-4-808: Evidence of Violations
- 12-4-809: Interruption of Service on Account of Tampering, By-Passing or Unauthorized Metering
- 12-4-810: Reconnection Charges for Tampering, By-Passing or Unauthorized Metering
- 12-4-811: Defective Meters; Estimated User Charges

12-4-801: METERS REQUIRED: Except as otherwise provided by contract or by resolution of Council,¹ the Division shall install a water meter at the premises of each user of the water supply system of the City. Such meter shall be capable of measuring the consumption of water at such premises, which measurement shall be recorded at periodic intervals as necessary for the purpose of determining the amount of applicable user charges. One or more meters shall be installed at each of such premises for each user charge rate at which such user receives service at such premises. (Ord. 80-148)

12-4-802: REMOTE READERS: Where a remote reader exists at the premises of a user of the water supply system of the City, and a discrepancy exists between the reading on such remote reader and the reading on the inside meter at such premises, the reading on the inside meter shall prevail for the purpose of determining the amount of applicable user charges. (Ord. 80-148)

12-4-803: METERS; INSTALLATION AND MAINTENANCE: All water meters shall be furnished and installed by the Division at the expense of the City and the City shall retain ownership of such meters. The Division shall perform all necessary maintenance and/or repair of meters, including replacement of meters; provided, however, that the property owner shall be responsible for protecting the meter against freezing and damage. (Ord. 80-148)

12-4-804: METERING FACILITIES; INSTALLATION AND LOCATION:

- A. The owner or developer of each premises served or to be served by the water supply system of the City shall provide and install sufficient and proper meter loops and other necessary facilities for the installation of a water meter. Such facilities shall be provided and installed at the expense of such owner or developer and in accordance with all applicable ordinances of the City and rules and regulations of the Division. No meter shall be installed until such facilities have been inspected and approved by the Division.
- B. The location of meter installation facilities and other metering equipment upon the premises shall be designated by the Manager. Such location shall provide for adequate clearance to ensure that the meter and appurtenant facilities and equipment are readily accessible for the purposes of reading, testing, maintaining and repairing the meter. The location of the meter and appurtenant facilities shall be such as to prevent obstruction of or interference with traffic, streets, driveways, sidewalks, hallways or other passageways, or the opening or closing of doors or windows, and to provide for protection from hazard. (Ord. 80-148)

1. Ed. Note: See Resolution 505-79, concerning unmetered water service rates for specific existing users.

12-4-805: **DEFINITIONS:** As used in this Part 8, the following definitions shall apply:

BY-PASS or **BY-PASSING** shall mean any pipe, tube, faucet or other instrument, device or contrivance by which water may be transmitted, diverted, taken or used, connected to any line used to supply water to the premises in such a manner as to transmit, divert, take or use any such water without passing through an authorized meter for measuring or determining the amount of such water.

CUSTOMER shall mean the person or organization responsible for the water utility account for the premises and includes authorized employees or agents of the owner.

TAMPER or **TAMPERING** shall mean damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter provided for measuring or determining the amount of water passing through such meter.

UNAUTHORIZED METERING shall mean removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for water service by a person other than an authorized employee of the Department. (Ord. 81-161)

12-4-806: UNLAWFUL ACTS:

- A. It shall be unlawful for any person to install a by-pass without the express written authorization of the Manager.
- B. It shall be unlawful for any customer or the user at any premises knowingly to receive water service by means of a bypass which has not been authorized in writing by the Manager or knowingly to receive water service by means of an authorized by-pass which is not approved or intended for water service.
- C. It shall be unlawful for any person to tamper with a water meter or other water utility equipment without the express written authorization of the Manager.
- D. It shall be unlawful for any customer or the user at any premises knowingly to receive water service by means of tampering which has not been authorized in writing by the Manager.

E. It shall be unlawful for any person to engage in unauthorized metering.

F. It shall be unlawful for any customer or the user of any premises knowingly to receive water service by means of unauthorized metering which has not been expressly authorized in writing by the Manager. (Ord. 81-161)

12-4-807: **RESTITUTION:** As a condition of granting probation, deferred prosecution, deferred sentence or suspended sentence, the Court may order any person who is charged with or found guilty of, as the case may be, violating any of the provisions of Section 12-4-806 to pay as restitution estimated or actual user charges for the period during which the violation existed, the cost of repairing or replacing any damaged utility equipment, and any other costs incurred by the City related to the violation including, but not limited to, costs of investigation, disconnection, reconnection and service calls. (Ord. 81-161)

12-4-808: EVIDENCE OF VIOLATIONS:

- A. Proof of the existence of any by-pass, tampering or unauthorized metering, as prohibited in this Part 8, shall be deemed prima facie evidence that the user at the premises where such by-pass, tampering or unauthorized metering if it is proved that the user is an occupant of the premises and that said user had access to the water meter or other utility equipment where the by-pass, tampering or unauthorized metering is proved to exist.
- B. Proof of the existence of any by-pass, tampering or unauthorized metering, as prohibited by this Part 8, shall be deemed prima facie evidence that the customer had knowledge of the by-pass, tampering or unauthorized metering if it is proved that said customer controlled access to the water meter or other utility equipment where the by-pass, tampering or unauthorized metering is proved to exist. (Ord. 81-161)

12-4-809: INTERRUPTION OF SERVICE ON ACCOUNT OF TAMPERING, BY-

PASSING OR UNAUTHORIZED METERING:

Tampering, by-passing or unauthorized metering, as defined in Section 12-4-805 at any premises is subterfuge. Such tampering, by-passing or unauthorized metering shall be grounds for immediate disconnection of service without notice to the customer or user at such premises, and service shall not be reconnected until any and all deficiencies in piping, connections, meters and/or water facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all applicable ordinances, rules and regulations and until the requirements of Section 12-4-810 are met. (Ord. 81-161)

12-4-810: RECONNECTION CHARGES FOR TAMPERING, BY-PASSING OR UNAUTHORIZED METERING:

In order for water service to be reconnected to premises where tampering, by-passing or unauthorized metering has occurred, the customer or user of the premises shall pay the following charges to the Department prior to reconnection:

- A. A service charge calculated to compensate the Department for all reasonable expenses incurred on account of the tampering, by-passing or unauthorized metering including, but not limited to, costs of investigation, disconnection, reconnection and service calls, but in no event less than thirty five dollars (\$35.00); and
- B. The cost of repairing or replacing any damaged utility equipment; and
- C. The actual or estimated user charges not previously billed to the customer as a result of the tampering, by-passing or unauthorized metering. (Ord. 81-161)

12-4-811: DEFECTIVE METERS; ESTIMATED USER CHARGES:

- A. If a meter is found not to register, to register intermittently or inaccurately, or to partially register for any period the amount of water consumed at the premises of any user of the water supply system, the Division may estimate charges for the water consumed by averaging the amounts registered over similar periods,

- A) over corresponding periods in previous years, or on such other basis as may be reasonable. The owner or occupant of the premises in which such defective meter is found to exist shall be liable for estimated user charges as so determined by the Division.
- B. In the event a defective meter has resulted in the overpayment of user charges by the owner or occupant of the premises in which such defective meter is found to exist, the excess amount, as determined on the basis of estimated user charges in the manner provided in subsection A of this Section, shall be refunded or credited to such owner or occupant. (Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 9 CONTROL AND PROTECTION OF WATER SYSTEM

SECTION:

- 12-4-901: Unlawful Acts
- 12-4-902: Unlawful to Pollute
- 12-4-903: Unlawful Entry; Exceptions
- 12-4-904: Recreational Use Allowed
- 12-4-905: Exception From Fishing Prohibition
- 12-4-906: Utility Enforcement Officers

12-4-901: UNLAWFUL ACTS:

- A. It shall be unlawful for any person to interfere in any manner with any distribution main, meter, corporation or any other appurtenance connected to the water system or comprising a part thereof without permission therefor obtained from the Manager.
- B. It shall be unlawful for any person to damage, impair or deface any part, appliance or appurtenance of the water supply system of the City.
- C. It shall be unlawful for any person to excavate or obstruct any line or main belonging to the City, or to do any act or thing to divert, damage, drain or otherwise impede or hinder, or tend to impede or hinder, the flow of any of the waters or streams tributary or contributing to the water supply of the City without permission therefor obtained from the Manager.
- D. It shall be unlawful for any person to damage, tamper, meddle or interfere in any way with any of the works, lakes, reservoirs, drains, streams, trenches, mains, lines, filters, valves, gauges, devices, grounds, enclosures, buildings, structures, boats or other property or works of the City used directly or indirectly for or in connection with the water supply system of the City.

- E. It shall be unlawful for any person to enter without authority or to trespass upon any property or works of the city used directly or indirectly for or in connection with the water supply system of the City. (Ord. 80-148)

12-4-902: UNLAWFUL TO POLLUTE:

- A. It shall be unlawful for any person to pollute or contaminate any of the waters in or of the water supply system of the City, or to do any act which would pollute or tend to pollute the watersheds of the City.
- B. It shall be unlawful for any person to do any act whatsoever which shall tend to foul or render impure or unwholesome any of the waters or streams tributary or contributing to the water supply of the City, and it shall be unlawful for any person to cast into or allow to flow or fall into any of said waters, or into any reservoir or lake belonging to the City, any filth, sewage, carrion, garbage, minerals, clay, rock or earth of any kind, or any excretion, clothing, paper, rags or any extraneous substances.
- C. It shall be unlawful for any person to do any of the following acts in such areas of the water supply system as the City Council may designate:
 1. To wash, swim, wade or bathe therein;
 2. To bathe any animal or to cause or allow any animal to enter or swim therein;
 3. To fish therein or to shoot over, into or near thereto.

In any areas of the water supply system so designated by City Council, the Division shall post notice of such prohibited acts. (Ord. 4720; Ord. 80-148; 1968 code § 9-70)

12-4-903: UNLAWFUL ENTRY; EXCEPTIONS:

- A. This Article shall not be construed to prevent Federal, State or local officials from entering upon government lands within the forest reserves in performance of their official duties. This Article is expressly subject to the rights of forest service and wildlife officers to enter upon government lands for all purposes necessary to the administration, protection and care of the forest lands and wildlife.
- B. This Article shall not be construed to prevent employees and officials of the City from entering upon watershed areas of the City in performance of their official duties. Such employees and officials may so enter and take any action necessary for the preservation, protection and maintenance of the water supply system of the City. (Ord. 80-148)

- B. It shall be the duty of a Utility Enforcement Officer to enforce the provisions of this Article and other City ordinances, the laws of the State of Colorado and/or the rules and regulations promulgated by the Manager concerning the use of watershed areas of the City. A Utility Enforcement Officer is authorized to issue summons and complaints for any unlawful act occurring within the watershed areas of the City. A Utility Enforcement Officer shall also have the power to arrest and detain persons in the watershed areas of the City where such persons are found in the act of violating any law or ordinance, or aiding or abetting such violations. (Ord. 80-148; 1968 Code § 9-69)

12-4-904: RECREATIONAL USE ALLOWED:

The City Council may allow watershed areas and reservoirs of the City to be used for public recreational purposes provided that such use is legally allowable and consistent with the maintenance of proper health, safety, fire protection and conservation standards. The City may cooperate with the United States Forest Service in the development and maintenance of the recreational resources of such areas and in the installation and completion of necessary facilities and improvements appurtenant to such recreational use.¹ (Ord. 80-148)

12-4-905: EXCEPTION FROM FISHING PROHIBITION:

The City may provide by agreement for the use of City reservoirs by the Colorado Division of Wildlife for such Division's spawntaking and fish propagation and management practices. Persons entering upon watershed areas of the City or taking fish from reservoirs of the City pursuant to any such agreement shall not be subject to the prohibitions against such activities set out in this Article. (Ord. 80-148)

12-4-906: UTILITY ENFORCEMENT OFFICERS:

- A. UTILITY ENFORCEMENT OFFICER means any person appointed by the Manager and designated by him as a Utility Enforcement Officer.

1. Ed. Note: For authority to make recreational use of certain watershed areas and reservoirs, see Article XIX, §§ 168 and 169 of the Charter of the City.

*CHAPTER 12 DEPARTMENT OF UTILITIES***ARTICLE 4 WATER CODE***PART 10 INCLUSION OF CITY IN SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT*

SECTION:

12-4-1001: Consent Given by Council

12-4-1001: CONSENT GIVEN BY COUNCIL:

Consent is hereby given by the City Council to the inclusion of the City within the boundaries of the Southeastern Colorado Water Conservancy District and to taxation in and by such district pursuant to the statutes in such case made and provided, and that the proper officers of the City are hereby authorized and directed to execute such documents as may be required therefor. The judicial decree authorizing and adjudging the formation and incorporation of the Southeastern Colorado Water Conservancy District shall include a provision that in the event the transmountain water diversion program known as the Fryingpan-Arkansas Project is not authorized, approved and constructed as a Water and Power Resources Services project and the City should not approve or desire to participate in any other program or project for the diversion and use of water by said district, the City at its request shall be excluded from said conservancy district upon the payment of assessments due and payable by said City. (Ord. 2206; Ord. 2429; Ord. 80-148)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 4 WATER CODE

PART 11 INCORPORATION OF DENVER BASIN GROUNDWATER INTO WATER SUPPLY SYSTEM OF CITY

SECTION:

- 12-4-1101: Findings
- 12-4-1102: Incorporation
- 12-4-1103: Exceptions
- 12-4-1104: Prohibition

12-4-1101: **FINDINGS:**

- A. It is recognized that groundwater from any of the Dawson, Denver, Arapahoe, Laramie, Fox Hills, and/or Dakota Aquifers has been or may in the future be determined to underlie certain lands located within the boundaries of the Colorado Springs water service area.
- B. The City is the principal provider of water service to landowners within its water service area boundaries.
- C. Water service is reasonably available, on a "first-come, first-serve" basis, from the Department of Utilities for all lands located within the City's water service area.
- D. For the health, safety, comfort, welfare, and benefit of its inhabitants, the City deems it necessary, in the pursuance of its recognized obligations, to provide for a municipal water system to meet the needs of its citizenry, as well as others incorporated into said system.
- E. Future availability of water from the Dawson, Denver, Arapahoe, Laramie, Fox Hills, and/or Dakota Aquifers, may assist the City in providing an additional supply of water for said purposes, as well as allowing for future economic growth in an orderly manner.
- F. To avoid interference with the water supply to or water rights of any wells which the City now operates or may in the future construct in said

F) aquifers, and to any other water rights decreed to or owned by the City, which interference would be detrimental to the health, safety and welfare of the citizens of Colorado Springs and other persons incorporated into the City's water supply system, the City deems it necessary to prohibit the drilling of wells into said aquifers within the boundaries of the City in a manner inconsistent with this Part 11.

The City exercises its statutory and home rule authority as hereinafter provided. (Ord. 85-187)

12-4-1102: **INCORPORATION:** Pursuant to the authority granted to the City under C.R.S. 37-90-137(8), and subject to the exceptions noted herein, the City hereby asserts the exclusive right to withdraw for beneficial use all groundwater from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, and Dakota Aquifers which underlies any and all land within the City's existing water service area boundary as of January 1, 1985, and declares that all affected landowners not subject to the exceptions listed below do hereby consent to any and all such future withdrawals as may be deemed to be in the public's best interest, such determination to be made by the Manager of the Water Division in accordance with his responsibilities outlined in Section 12-4-302. (Ord. 85-187)

12-4-1103: **EXCEPTIONS:** No consent to withdraw groundwater referred to in Section 12-4-1102 shall be deemed to be given by the overlying landowner with respect to specific, delineated portions of the overlying land if:

- A. The landowner can demonstrate, to the satisfaction of the Manager of the Water Division, that contrary to the findings of this body, service to such portion of the land is not reasonably available from the Department of Utilities, in accordance with the provisions of

- A) this Article and/or Chapter 15 of this Code, and no plan has been established by the Department which would allow the landowner to obtain an alternative water supply;
- B. Prior to January 1, 1985, such groundwater was conveyed or reserved or consent to use such groundwater was given or reserved in writing to anyone other than the City of Colorado Springs and such conveyance, reservation, or consent is properly recorded prior to August 31, 1985;
- C. Consent to use such groundwater has been given to anyone other than the City of Colorado Springs by the lawful effect of an ordinance adopted by City Council, provided said ordinance or resolution was adopted prior to January 1, 1985;
- D. Such groundwater has been decreed or permitted to any one other than the City of Colorado Springs prior to the effective date of this ordinance; or
- E. Such portion of the land is not being served by the Department of Utilities for the City of Colorado Springs, as of the effective date of this ordinance, and such groundwater is the subject of an application for determination of a right to use groundwater filed in the Water Court prior to July 1, 1985, provided that such application is ultimately successful and said rights are decreed to the applicant. (Ord. 85-187)

12-4-1104: **PROHIBITION:** No person may construct a well in said aquifers upon lands subject to said Part 11, or withdraw groundwater from underneath said lands, unless no consent to the withdrawal of said groundwater by the City exists due to the exceptions provided for in Section 12-4-1103. (Ord. 85-187)

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 1 TITLE

SECTION:

12-5-101: Title

12-5-102: Purpose and Applicability

12-5-101: **TITLE:** The title of this Article shall be "The Wastewater Treatment Code" and this Article may be cited as such. (Ord. 86-186)

12-5-102: **PURPOSE AND APPLICABILITY:** This Article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Colorado Springs and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the general Pretreatment Regulations.¹

This Article shall apply to the City of Colorado Springs and to districts, persons or other entities outside the City who are, by contract or agreement, users of the City's public owned treatment works. (Ord. 86-186)

1. 40 CFR, Part 403.

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 2 DEFINITIONS

SECTION:

12-5-201: Definitions

12-5-202: County Health Department, Health Officer

12-5-201: DEFINITIONS:

A. Unless the context specifically indicates otherwise, the following items, as used in this Article, shall have the meanings hereinafter designated:

1. ACT shall mean the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, and subsequent amendments (e.g., Clean Water Act of 1977).

2. ARTICLE or THIS ARTICLE means Article 5 of Chapter 12 of the Code of the City of Colorado Springs.

3. AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER means:

a. A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

b. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

c. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.

4. BIOCIDES shall mean those chemical compounds commonly known as herbicides, fungicides, rodenticides, insecticides, or bactericides.

A) 5. BOD or BIOCHEMICAL OXYGEN DEMAND means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory methods of five (5) days at twenty degrees (20°) C., expressed in terms of weight and concentration (milligrams per liter).

6. CDPS or COLORADO DISCHARGE PERMIT SYSTEM means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into surface water of the State of Colorado under conditions of the delegation of authority to administer a State water quality control program pursuant to section 402 of the Act.

7. COLLECTION LINE means that portion of the wastewater treatment system which collects and transmits wastewater from users to the wastewater treatment plant, excluding service lines.

8. COMBINED WASTESTREAM FORMULA means a formula as outlined in the general pretreatment regulations of the Clean Water Act and applied to sampled wastewater flow from regulated users in order to determine compliance with all applicable pollutant limitations and which accounts for dilution effects from unregulated wastewater streams such as sanitary, cooling water, etc.

9. COMMERCIAL USER DISCHARGE PERMIT means a permit authorizing a significant commercial user to discharge wastewater to the City POTW, providing that all conditions of the issued permit are maintained.

10. COMPLIANCE SCHEDULE means a schedule containing increments of progress in the form of dates for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment facilities or the implementation of policies, procedures or operational management tech-

A10) niques required for the user to comply with all applicable Federal, State or local environmental regulations which may directly or indirectly affect the quality of the user's wastewater effluent.

11. COMPOSITE SAMPLE means a series of grab samples of equal volume taken at predetermined times over a predetermined time period without regard to flow and which are combined into one sample.

12. CONSUMPTIVE USE ALLOWANCE means the technical determination of the volume of potable water purchased through City meters which is not discharged to the sanitary sewer and is not used for landscape irrigation.

13. CONVENTIONAL POLLUTANT means BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this City's CDPS permit for its wastewater treatment works where said works have been designed and used to reduce or remove such pollutants.

14. COOLING WATER means the water discharged from uses such as air conditioning or refrigeration or to which the only pollutant added is heat.

15. CYANIDE AMENABLE TO CHLORINATION means a measurement of the cyanide that is free in solution, not complexed and cyanide that is complexed but almost wholly potentially dissociable and therefore toxic at low concentrations. Cyanide amenable to chlorination is the calculated difference in total cyanide measurements between a sample that is pretreated to excess with chlorine and an identical sample which is not pretreated.

16. CYANIDE TOTAL means a measurement of both free and complexed cyanide contained in solution. Analytical methods will use a sample preparation technique at least as rigorous as u.v. digestion and distillation. When a sample is run using different sample preparation techniques, the highest measured concentration will be used to determine compliance.

17. DISCHARGE RATE shall mean that volume of effluent per operating day from the user which has been determined by the Manager to be representative of process effluent from that user.

A) 18. DIVISION or WASTEWATER DIVISION means the operating Division of the Department of Utilities which is responsible for the operation and maintenance of the wastewater treatment system.

19. DOMESTIC WASTES or SANITARY WASTES means liquid wastes:

a. From the noncommercial preparation, cooking and handling of food, or

b. Containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

20. EXTRA MONITORING CHARGE means additional monitoring time and materials costs incurred by the City Wastewater Division charged to the responsible user, and which are necessitated by a violation of applicable environmental standards.

21. FIXTURE UNIT EQUIVALENT means the unit value prescribed for plumbing fixtures as set out in the Uniform Plumbing Code, computed on the basis of the design capability of such fixture to permit the flow of water or wastewater.

22. FLOW PROPORTIONATE SAMPLE means a sample collected during a predetermined time period which reflects variations in wastewater flow volume.

23. FOUR-DAY AVERAGE means the arithmetic average of four (4) consecutive composite samples.

24. GARBAGE means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

25. GRAB SAMPLE means a singular sample of user's effluent which is taken during the user's normal operating day without regard for variations in daily operational characteristics, flow or concentration of pollutants.

26. INCOMPATIBLE POLLUTANT means any pollutant which is not a "conventional pollutant" as defined in item (A)(13) of this Section.

27. INDIVIDUAL WASTEWATER DISPOSAL

A27) **SYSTEM** means a septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the wastewater treatment system of the City.

28. **INDUSTRIAL USER** means a source of indirect discharge under regulations pursuant to the Act or for which local pretreatment standards have been published by the Environmental Protection Agency or for which local pretreatment standards have been established.

29. **INDUSTRIAL WASTE** means any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process or operational procedures of an industrial user.

30. **INDUSTRIAL WASTEWATER DISCHARGE PERMIT** means an authorization to discharge industrial process wastewaters by an industrial user into the City sanitary sewer system.

31. **INSTANTANEOUS COMPLIANCE SAMPLE** means a grab sample collected for the purpose of gauging compliance with the Wastewater Treatment Code or is otherwise used to track compliance schedule progress.

32. **INTERFERENCE** means inhibition or disruption of the POTW sewer system, treatment processes or operations of which contributes to a violation of any requirement of the City's CDPS permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the POTW.

33. **MANAGER or WASTEWATER DIVISION MANAGER** is the Manager of the Wastewater Division of the Department of Utilities, or his designated representative.

34. **MASTER PLUMBER** means a master plumber as defined in and licensed pursuant to article 58 of title 12 of the Colorado Revised Statutes 1973, as the same may be now or hereafter amended, and registered with the Regional Building Department pursuant to Section 16-6-701 of this Code.

A) 35. **MASS EMISSION RATE** means the weight of material or pollutants discharged to the City sanitary sewer system during a given time interval.

36. **MONTHLY AVERAGE** means the arithmetic average of the number of composite samples indicated in the user's discharge permit as necessary to reasonably determine the user's average wastewater quality for a calendar month.

37. **NATIONAL CATEGORICAL PRETREATMENT STANDARD** means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (B) and (C) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users as determined by the City Wastewater Division's Standard Industrial Code classification system.

38. **NPDES or NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM** means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans pursuant to section 402 of the Act.

39. **NEW SOURCE** means any individual user, the construction of which is commenced after the effective date of regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard applicable to such user.

40. **NORMAL DOMESTIC STRENGTH WASTEWATER** means wastewater that when analyzed by standard methods contains no more than one hundred seventy eight (178) milligrams per liter of suspended solids (TSS) and two hundred eighty two (282) milligrams per liter of BOD.

41. **OPERATING DAY** means that portion of a twenty four (24) hour day during which industrial wastes are discharged or generated.

42. **pH** means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

43. **POTW, PUBLIC OWNED TREATMENT WORKS, WASTEWATER TREATMENT SYSTEM, or WASTEWATER SYSTEM** means:

a. Any devices, facilities, structures, equip-

A43a) ment or works owned or used by the City for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines;

b. Extensions, improvements, additions, alterations or any remodeling thereof;

c. Elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and

d. Any works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

44. PRETREATMENT means application of physical, chemical and/or biological processes to reduce the amount of pollutants in or to alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the wastewater treatment system.

45. PRETREATMENT STANDARDS means all applicable Federal rules and regulations implementing section 307 of the Act, as well as any nonconflicting State or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

46. PUMPER PERMIT means a permit issued by the City Wastewater Division authorizing the discharge of septage material collected by vacuum type tank trucks into the designated disposal facility of the City Wastewater Division.

47. RECEIVING WATER means lakes, rivers, streams or other watercourses which receive treated or untreated wastewater.

48. REGIONAL BUILDING OFFICIAL means the Director of the Regional Building Department of El Paso County, Colorado, or his designated representative.

49. SEPTIC TANK PUMPINGS means the material pumped from individual wastewater disposal systems and which contain domestic wastes only.

A) 50. SERVICE LINE means the wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the collection line.

51. SIGNIFICANT COMMERCIAL USER means those nonindustrial, nonresidential users whose wastewater effluent:

a. Exceeds fifty thousand (50,000) gallons per average operating day or;

b. Contains significant amounts of materials which may inhibit the efficiency of the City POTW.

52. SIGNIFICANT INDUSTRIAL USER means any industrial user of the City's wastewater treatment system whose discharge rate:

a. Exceeds twenty five thousand (25,000) gallons per average operating day, or

b. Contains significant amounts of those toxic materials specified by the Manager in accordance with rulemaking or as defined in the standards issued under section 307 of the Act.

c. Is determined by the Manager to have significant impact, either singly or in combination with other contributing industries, on the treatment works such that the quality of the effluent from the treatment works may deviate from the requirements set forth in the Colorado discharge permit system permit issued to the City, or such that interference with the treatment process or facilities would result.

53. SIGNIFICANT VIOLATION means a violation of Article 5 of Chapter 12 of the Code of the City of Colorado Springs, as amended, which remains uncorrected forty five (45) days after notification of noncompliance unless the user is adhering to an approved compliance schedule; or which is a pattern of noncompliance over a twelve (12) month period; or which involves a failure to accurately report noncompliance or which involves falsification of records or tampering with monitoring equipment; or, which resulted in the POTW exercising its emergency authority under the Act.

54. SIGNIFICANT WASTE GENERATOR means those nonresidential users of the City wastewater treatment system that:

A54) a. Generate hazardous or toxic waste material as defined by the Federal Resource Conservation and Recovery Act in amounts greater than one hundred (100) kilograms per month; or

b. Are determined by the Manager to be significant due to the characteristics of processes, operations or other factors as appropriate.

55. SLUG DISCHARGE means any discharge of water, sewage or industrial waste which:

a. Contains any substances regulated by Part 8 of this Article in concentrations which exceed for any period longer than ten (10) minutes more than five (5) times the average daily concentration of that substance during normal operations and exceeds the limitations contained in Part 8 of this Article; or

b. Causes a twofold or more increase in discharge rate for a period longer than twenty (20) minutes;

c. Causes that user's effluent to violate the pH limitations provided in Part 8 of this Article for a period longer than thirty (30) minutes; or,

d. Is a condition of discharge determined by the Manager to be a slug discharge as is specified in the user's discharge permit.

56. STANDARD INDUSTRIAL CODE means a numerical code indicating the classification of users pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972 and amendments thereof and supplemented by the Wastewater Division.

57. STORM WATER means flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

58. SUSPENDED SOLIDS means the total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering by standard methods.

59. SYSTEM DEVELOPMENT CHARGE means that charge assessed against new users of the wastewater treatment system to finance capital improvement of the wastewater treatment system.

A) 60. TOTAL METALS means the sum of the concentration of copper, nickel, total chromium, cadmium and zinc.

61. TOTAL TOXIC ORGANICS means the sum of all concentration values greater than 0.01 milligrams per liter for the list of toxic organics as developed by the Federal EPA for each national categorical pretreatment standard or otherwise specified by the Manager.

62. TRAP means a device for retaining sand, silt, grit, mineral or inert material, petroleum solvent, grease or oil by gravity separation from wastewater and of a design and capacity approved by the Regional Building Department and/or the Wastewater Division.

63. UNPOLLUTED WATER is water not containing any substances limited or prohibited by the effluent standards in effect or water whose discharge will not cause any violation of receiving water quality standards.

64. USER means any person, firm, corporation, government or other entity that discharges, causes or permits the discharge of wastewater into the City POTW.

65. USER CLASSIFICATION means a classification of users based on the 1972 (or subsequent edition of the Standard Industrial Classification (SIC) Manual prepared by the Federal Office of Management and Budget.

66. WASTE GENERATOR DISCHARGE PERMIT means a permit issued by the City Wastewater Division which authorizes wastewater discharge from significant waste generators.

67. WASTEWATER: Means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the City's wastewater treatment system.

68. WASTEWATER FACILITIES shall mean those devices intended or designed for generating or conveying wastewater to the City publicly owned treatment works.

B. Terms not otherwise defined herein shall have the meanings adopted in the latest edition of

- B) Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation. (Ord. 86-186)

12-5-202: **COUNTY HEALTH DEPARTMENT, HEALTH OFFICER:** Any reference in this Article to the "Department of Health" or "the Health Department" shall mean the Department of Health of El Paso County. Any reference in this Article to the "Health Officer" shall mean the Health Officer of the Department of Health of El Paso County, or his designated representative. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 3 WASTEWATER DIVISION

SECTION:

12-5-301: Responsibility of Division
 12-5-302: Responsibility of Manager
 12-5-303: Rules and Regulations; Adoption of

quantities which will not harm either the wastewater system, wastewater treatment process or equipment, that will not have an adverse effect on the receiving water, or will not otherwise endanger persons or property or constitute a nuisance. (Ord. 86-186)

12-5-301: RESPONSIBILITY OF DIVISION: The Wastewater Division shall be responsible for the wastewater systems and wastewater treatment plants serving the City and such other areas as authorized by the City Council. (Ord. 86-186)

12-5-302: RESPONSIBILITY OF MANAGER: The Manager of the Wastewater Division shall be responsible for the management of the wastewater system of the City and all of the property appertaining thereto. He shall see that such system is kept properly cleaned and in good working order and repair. He shall insure proper compliance with all local, State and Federal regulations for collection, treatment and discharge of wastewater and shall perform all other duties in connection with such system as may be required of him by the Director of Utilities. (Ord. 86-186)

12-5-303: RULES AND REGULATIONS; ADOPTION OF: The Manager may adopt rules and regulations consistent with the provisions of this Article for the administration of the wastewater system. Rules and regulations adopted by the Manager pursuant to Section 12-1-203A of this Chapter shall pertain to, but shall not be limited to, discharge limitations, pretreatment requirements, standards for installation of wastewater lines and services and implementation of standards promulgated pursuant to the Act. In establishing such rules and regulations, the Manager shall seek to establish standards that will assure safe, efficient operation of the wastewater system, that will limit wastewater discharges to the system in concentrations and

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 4 WASTEWATER SERVICE

SECTION:

12-5-401: Service; Application for
 12-5-402: Service Outside City; Policy
 12-5-403: Service Outside City; Application for
 12-5-404: Service; Special Contract
 12-5-405: Service; Excavations for

12-5-401: SERVICE; APPLICATION FOR: Any person desiring to connect a service line to the wastewater treatment system of the City, or to add fixtures to an existing connection, shall make application to the Manager for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all ordinances, regulations or rules concerning the wastewater system. The Manager shall endorse his approval or disapproval of the application as complying or failing to comply with all ordinances, regulations or rules concerning the wastewater system of the City. Upon approval by the Manager of such application, such user receiving wastewater service shall pay therefor in accordance with the applicable rates, rules and regulations. (Ord. 86-186)

12-5-402: SERVICE OUTSIDE CITY; POLICY: The policy of the City relating to the furnishing of wastewater treatment service to users located outside the corporate limits of the City is set out in Article 2 of Chapter 15 of this Code. The City expressly reserves the right, as may be limited by State or Federal law, to impose such conditions as it may see fit relative to furnishing such service, and may refuse such service in its discretion. (Ord. 86-186)

12-5-403: SERVICE OUTSIDE CITY; APPLICATION FOR: Any person desiring to connect a service line and/or add fixtures to an existing connection which is located outside the City limits

shall comply fully with Article 2 of Chapter 15 of the Code of the City. Such person shall then make application to the Department for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all ordinances, regulations or rules concerning the wastewater system. The Manager shall endorse his approval or disapproval of the application as complying or failing to comply with all ordinances, regulations or rules concerning the wastewater system of the City. (Ord. 86-186)

12-5-404: SERVICE; SPECIAL CONTRACT:

- A. The City may provide by contract for the use of and connection to the City's wastewater treatment system by institutions, plants, organized sewer districts, municipal corporations or other similar users which are located outside the corporate limits of the City. Such use of or connection to the City's wastewater treatment system shall be subject to such terms and conditions as the City may see fit to impose.
- B. Contracts entered into pursuant to this Section shall provide for compliance by the user with the discharge prohibitions and limitations contained in this Article. Such contracts shall require the user to:
 1. Submit to the jurisdiction of the City for the purposes of the enforcement procedures and penalties set out in this Article; and
 2. Stipulate liquidated damages for violation of the provisions of this Article in an amount equal to the penalties imposed herein.
- C. Contracts entered into pursuant to this Section may provide for acceptance by the City of only normal domestic strength wastewater, and the requirements of subsection B2 of this Section

- C) shall not apply to such contracts. However, such contracts shall provide that any discharge of industrial wastewater by the user shall subject such user to consequential damages for breach of contract, including but not limited to any amounts the City may be required to pay for violation of the conditions of its CDPS permit where the discharge of the user caused or contributed to such violation. Discharges of industrial wastewater by a user bound by such contract shall not be accepted by the City except pursuant to notice to the City and execution of an amended or additional contract to which the requirements of subsection B2 of this Section shall apply.
- D. Contracts for use of or connection to the wastewater treatment system of the City in force and effect on the effective date of this Article shall remain in full force and effect in accordance with the terms and conditions thereof. (Ord. 86-186)

12-5-405: SERVICE; EXCAVATIONS FOR: All excavations for installation or repair of wastewater lines shall be adequately guarded with barricades and lights and meet all applicable safety standards so as to protect the public from hazard. Any excavation affecting public places, as those terms are defined in Section 19-5-201 of the City Code, shall be carried out in conformance with Part 2 of Article 5 of Chapter 19 of the City Code. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 5 WASTEWATER TREATMENT CODE

PART 5 CONNECTION AND INSTALLATION OF SYSTEM

SECTION:

- 12-5-501: Connection Required
- 12-5-502: Connection or Disconnection; Permits
- 12-5-503: Unauthorized Connections Prohibited
- 12-5-504: Connection to System; Inspection by City
- 12-5-505: Collection Lines; Manner of Extension
- 12-5-506: Wastewater Lines; Compliance With Subdivision Requirements
- 12-5-507: Service Line; Separate for Each Building; Exceptions
- 12-5-508: Service Line; Construction to Conform to Rules and Regulations
- 12-5-509: Service Line; Use of Gravity Flow
- 12-5-510: Service Line; Maintenance of
- 12-5-511: Existing Lines; Conditions for Use
- 12-5-512: Construction; Requirements for Commencement and Completion
- 12-5-513: Fixture Unit Equivalents
- 12-5-514: Disconnection

12-5-501: **CONNECTION REQUIRED:** The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right of way in which there is now located or may in the future be located a collection line of the City, is hereby required at such owner's expense to install suitable wastewater facilities therein, and to connect such facilities directly with the proper collection line in accordance with the provisions of this Article within ninety (90) days after official notice to do so, provided that said collection line is within four hundred feet (400') (one hundred twenty two [122] meters) of the property line. Under unusual circumstances such as unique topographical characteristics, the City Manager, with Health Department approval, may waive the connection requirement herein stipulated. (Ord. 86-186)

12-5-502: **CONNECTION OR DISCONNECTION; PERMITS:** The Department of Utilities

shall issue a permit for each connection or disconnection made to or from the wastewater treatment system of the City. Such permit will be required for all new connections, existing connections where additional fixtures are to be installed, and for disconnections. Permits for connection or disconnection shall be issued only to master plumbers. Discharge permits for significant industrial users, significant commercial users, and significant waste generators shall be required as provided in Part 11 of this Article in addition to the connection permit. (Ord. 86-186)

12-5-503: **UNAUTHORIZED CONNECTIONS PROHIBITED:** It shall be unlawful for any unauthorized person to uncover, enter, insert equipment, make any connections with or openings into, use, alter or disturb any collection line or appurtenance thereof, without first obtaining written permission from the Manager and such connections shall be made in compliance with Building and Plumbing Codes, Wastewater Division Rules for Installation of Sewer Mains and Services and other applicable rules and regulations of the City. (Ord. 86-186)

12-5-504: **CONNECTION TO SYSTEM; INSPECTION BY CITY:** The applicant for the wastewater service permit shall notify the Manager when the service line is ready for inspection and connection to the collection line. The connection and testing required by the Division shall be made under the supervision of the Manager. The City shall not be subjected to any liability for any deficiency or defect which is not discovered by inspection nor shall the owner or developer of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect. (Ord. 86-186)

12-5-505: **COLLECTION LINES; MANNER OF EXTENSION:** Collection lines to collect and intercept wastewater from and throughout areas or additions shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to the farthest point

or points upgrade of such premises. If the Manager determines that extension of collection lines to the farthest point or points upgrade is not necessary for efficient expansion of the wastewater treatment system, the Manager may waive the requirement of such extension. In any event, collection lines shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to a point which permits the shortest possible service line between the collection line and the property line of the premises served thereby. Thereafter said collection lines shall be extended to adjoining premises in compliance with the latest edition of the Wastewater Division Rules for Installation of Sewer Mains and Services as promulgated, supplemented and amended by the Manager, as provided in Part 3 of this Article. Extensions shall not be made for remote or isolated services unless the applicant requesting such service shall provide for the cost of such extension to the point of service and such extension is approved by the Manager. (Ord. 86-186)

12-5-506: WASTEWATER LINES; COMPLIANCE WITH SUBDIVISION REQUIREMENTS:

No wastewater lines shall be laid or placed in any proposed addition or subdivision to the City until said proposed addition is platted and approved as provided in Article 3 of Chapter 15 of this Code.¹ (Ord. 86-186)

12-5-507: SERVICE LINES; SEPARATE FOR EACH BUILDING; EXCEPTIONS:

A separate and independent service line shall be provided for every building. However, where one building stands at the rear of another on an interior lot cannot be subdivided, and for which no line is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the service line of the front building may be extended to the rear building and the whole considered as one service. Multi-family or commercial or industrial complexes having more than one building on a single platted lot may have the individual buildings connected to a single common service line, unless and until such lot is resubdivided or the buildings otherwise become separately owned in which case independent connections shall be made. Waiver of this requirement for a separate and independent service line, may be granted by the Manager upon resubdivision or creation of separate

ownership of individual buildings on a single lot with existing multi-family or commercial, but not industrial complexes. Such a waiver shall be granted upon showing that the service lines owned in common will be maintained by an entity of the owners of the separate buildings. By regulation, the Manager may provide for additional requirements to assure proper maintenance and repair of the common service lines, and, if necessary, monitoring of effluent quality or quantity. The City does not assume any obligation nor acquire any liability for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the wastewater system as aforementioned. (Ord. 86-186)

12-5-508: SERVICE LINE; CONSTRUCTION TO CONFORM TO RULES AND REGULATIONS:

The size, slope, alignment and materials of construction of a service line, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes and the Wastewater Division Rules for Installation of Sewer Mains and Services and other applicable rules and regulations of the City. (Ord. 86-186)

12-5-509: SERVICE LINE; USE OF GRAVITY FLOW:

Whenever possible, the service line shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the collection line, wastewater carried by such building drain shall be lifted by means approved by the Regional Building Official and discharged to the wastewater system. (Ord. 86-186)

12-5-510: SERVICE LINE; MAINTENANCE OF:

- A. The owner of any premises connected to the City's wastewater treatment system shall be responsible for the maintenance of the service line and appurtenances thereto, from and including the connection to the collection line to the premises served. The owner shall keep such line in good condition and shall replace, at his expense, any portions thereof which, in the

1. Ed. Note: Waiver of subdivision requirements may be granted by City Council under the provisions of Part 13 of Article 3 of Chapter 15 of this Code.

- A) opinion of the Manager, have become so damaged or disintegrated as to be unfit for further use. The owner must secure all required permits for construction purposes and shall be responsible for returning the public right of way and the street to acceptable City standards.
- B. In the event that more than one premises are connected to a single service line, the owners of the respective premises shall be jointly and severally responsible for the maintenance and repair requirements imposed by this Section.
- C. Prior to repair or alteration of the service line, a permit must be obtained from the Division. A permit fee shall be imposed to cover the costs of the inspection. This inspection shall assure that ordinances and rules applying to the wastewater system are met. The City shall not be subjected to any liability for any deficiency in the repair or alteration of such premises, be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect. (Ord. 86-186)

12-5-511: EXISTING LINES; CONDITIONS FOR

USE: Old wastewater lines may be used in connection with new buildings only when they are found, on examination by the Manager, to meet all requirements of this Article and to be compatible with the proposed use. If found unacceptable for future use, the owner shall be required to excavate the line at the point of connection to the collection line and cap the connection as required by the Wastewater Division Rules for Installation of Sewer Mains and Services. (Ord. 86-186)

12-5-512: CONSTRUCTION; REQUIREMENTS FOR COMMENCEMENT AND COM-

PLETION: Construction of a building or facility to be served by a wastewater connection shall be commenced within one hundred twenty (120) days from the date of payment of connection charges or issuance of a permit, and such construction shall be pursued to completion without suspension or abandonment, as set out in the Uniform Building Code under Building Permits, Section 302(d).¹ Failure to comply with the above regulations will result in cancellation of the permit and return of connection charges paid less the cost to the Division incurred to determine such noncompliance. (Ord. 86-186)

12-5-513: FIXTURE UNIT EQUIVALENTS: Fixture unit equivalents shall be calculated using the following schedule and shall apply to "stubbed in" or "roughed in" fixture traps as well as those fixtures being installed.

Kind of Fixture	Trap Arm	Equivalents
Bathtubs	1½"	2
Bidets	1½"	2
Dental Unit or Cuspidors	1¼"	1
Drinking Fountains	1¼"	1
Floor Drains	2"	2
Interceptors for Grease, Oil, Solids, etc.	2"	3
Interceptors for Sand, Auto Wash, etc.	3"	6
Laundry Tubs	1½"	2
Clothes Washers	1½"	2
Receptors (Floor Sinks), Indirect Waste		
Receptors for Refrigerators, Coffee Urns, Water Stations, etc.	1½"	1
Receptors, Indirect Waste		
Receptors for Commercial sinks, Dishwashers, Air Washers, etc.	2"	3
Showers, Single Stall	2"	2
Showers, Gang (per shower head)	2"	1
Sinks, Bar, Private	1½"	1
Sinks, Bar, Commercial	1½"	2
Sinks, Commercial or Industrial Schools, etc. Including Dishwashers, Wash-Up Sinks and Wash Fountains	1½"	3
Sinks, Flushing Rim, Clinic	3"	6
Sinks, Double (Residential Kitchen)	1½"	2
Dishwashers (Residential)	1½"	2"
Sinks, Service	2"	3
Urinals, Pedestal	3"	6
Urinals, Stall	2"	2
Urinals, Trough	1½"	3
Wash Basins, (Lavatories) Single	1¼"	1
Wash Basins, in Sets	1½"	2

1. Ed. Note: The Uniform Building Code has been adopted by reference by Section 16-2-102 of this Code.

<u>Kind of Fixture</u>	<u>Trap Arm</u>	<u>Equivalents</u>
Water Closet, Tank Type	3"	4
Water Closet, Flush Valve Type	3"	6

The unit equivalents of plumbing fixtures not listed above shall be based on the following schedule:

<u>Trap or Trap Arm Size</u>	<u>Unit Equivalents</u>
1 ¼"	1
1 ½"	3
2"	4
3"	6
4"	8
5"	10
6"	12

(Ord. 86-186)

12-5-514: **DISCONNECTION:** In the event that a user desires to disconnect his premises from the wastewater system of the City, he shall not be permitted to take up that portion of the service line between the collection line and the property line of the premises, but at his expense the service line shall be capped at said property line and the service line shall be removed from the property line to the structure except as required by Section 12-5-511 of this Code. New service lines to replace existing service lines shall not be approved by the City until old service lines are dug up and properly capped. Such cap shall be sufficiently tight to prevent the escape of wastewater gas or the infiltration of water. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 6 COSTS AND CHARGES

SECTION:

12-5-601: Wastewater Facilities; Allocation of Cost
 12-5-602: Installation Cost
 12-5-603: Connection Charge
 12-5-604: Permit Charge
 12-5-605: System Development Charge
 12-5-606: Recovery Agreement Charge
 12-5-607: Rates and Charges; Basis for
 12-5-608: Rates and Charges; Computation of
 12-5-609: Rates and Charges; Special
 12-5-610: Perpetual Lien

12-5-601: WASTEWATER FACILITIES; ALLOCATION OF COST:

- A. Except as otherwise provided herein, a property owner or developer shall be responsible for the costs and construction of all wastewater facilities and the appurtenances thereto in and through his property or development upon approval of the plans and specifications by the City as provided in Chapter 13 of this Code. The City shall inspect and approve the actual construction, prior to connection of structures.
- B. The Manager may require the property owner or developer to construct a collection line larger than that required for his needs for the service of lands adjacent to his property or development, in which case the City may enter into a recovery agreement with the owner or developer to collect a prorata share of the costs of such construction from the owner of the adjacent lands at the time of their connection and refund such costs to the owner or developer. When an owner or developer finds it necessary to construct wastewater facilities through or adjacent to unserved or undeveloped lands, the owner or developer shall pay the entire cost of such facilities. However, the City may agree in writing with the owner or developer to collect a prorata share of the costs from the owner of property served by such facilities at the time of connection to the wastewater system and shall refund such cost to the owner or developer.
- C. In the event that pump stations and force mains are required, the cost of constructing said stations and mains shall be the responsibility of the owner of property served thereby. Where it appears that more area or lands may be served by the pump station and force mains, the City may require a larger capacity than necessary to serve the initial development. Where such larger capacity is required, the City may enter into a recovery agreement with the owner or developer to collect a prorata share of the costs from adjacent lands at the time of their connection and refund such costs to the owner or developer.
- D. In those instances where pump stations and force mains are required, the wastewater system shall be designed where possible so as to permit an eventual connection into a gravity system with a minimum of expense. Where practicable, easements shall be provided and lines constructed to tie into the gravity system. The City may require deposits from the property owners requiring said force system, where deemed necessary, to pay for the eventual construction of gravity lines.
- E. Recovery Agreement:
1. If an owner or developer desires to enter into a recovery agreement with the City, he shall submit a notice of intent prior to the start of construction, and he shall provide a complete detailed summary of all construction costs to the division within one hundred twenty (120) days after the date of preliminary acceptance notice by the City.
 2. The owner or developer and the Manager shall jointly determine the service area of the facilities constructed by the owner or developer, and shall jointly determine a per-front-foot, per-lot or per-acre recovery charge for said service area. In the event that the owner or developer and the Manager shall fail to agree, the determination of the Manager shall be final for the purpose of review by the Director and/or City Council.

- E) 3. The amount of the recovery charge shall be computed by the following formula:¹

$$X = \frac{a(1 + (b + .03)^5)}{c}$$

X = unit recovery charge (per front foot, per lot or per acre);

a = total construction cost; excluding the cost of service lines.

b = New York prime interest rate prevailing at the time the computation of the recovery charge is made, expressed as a decimal;

c = the number of equal or nearly equal units upon which recovery is to be based, whether front-feet, lots or acres served by the facilities.

4. The owner or developer's rights to reimbursement under the provisions of the recovery agreement shall not exceed the construction costs plus the interest factor for a period of twenty (20) years from execution of the agreement, unless the City Council shall approve a contract period exceeding twenty (20) years.

- F. All costs incidental to or resulting from the procurement by the City of any required easement or right of way, whether obtained by dedication, contract, condemnation or otherwise, shall be borne by the owner or developer. (Ord. 86-186)

12-5-602: INSTALLATION COST: All costs and expenses incidental to the installation and connection of service lines from the collection line to the premises shall be borne by the owner of such premises. The owner shall indemnify the City for any loss or damage to the City that may directly or indirectly be occasioned by the installation of such service line. (Ord. 86-186)

12-5-603: CONNECTION CHARGE: In each lot, area, territory, subdivision or addition, inside or outside the City limits, for which a request for wastewater connection or addition to the wastewater treatment system of the City shall be made, there is and shall be a connection charge for each service line in said areas. Said connection charge shall consist of a permit charge and a system development charge, and may also include recovery agreement charges. (Ord. 86-186)

12-5-604: PERMIT CHARGE: A permit charge shall be assessed for each connection to the wastewater treatment system of the City to defray the costs of administration and inspection. Such charge shall be assessed and collected prior to issuance of a permit to connect, in amounts as follows:

A. Residential:

1. For each one-family dwelling or mobile home, as those terms are defined in Section 14-1-109 of this Code, the amount of the permit charge shall be twenty three dollars (\$23.00) for each such premises.

2. For each dwelling unit of all common wall multi-family residential construction, which may be described as an apartment, condominium, townhouse, stacked housing or other name form for multi-family housing, permanent or transient, the amount of the permit charge shall be fifteen dollars (\$15.00) for each dwelling.

- B. Commercial and Industrial: For each commercial or industrial premises as those terms are defined in Section 14-1-109 of this Code, the amount of the permit charge shall be fifty three dollars (\$53.00) for the first fifteen (15) fixture unit equivalents, as set out in Section 12-5-513 of this Article, and twenty dollars (\$20.00) for each additional fifteen (15) fixture units or portion thereof. (Ord. 86-186)

12-5-605: SYSTEM DEVELOPMENT CHARGE:

- A. A system development charge shall be assessed for each new connection to the wastewater system of the City to partially defray the costs of capital improvement of such system. Such charge shall be collected prior to issuance of a building permit, in amounts as follows:

1. For each residential wastewater service:

<u>Inside Corporate Limits</u>	<u>Outside Corporate Limits</u>
\$596.00	\$894.00

2. For each dwelling unit of all common wall multi-family residential construction, which may be described as an apartment, condominium, townhouse, stacked housing or other name form for multi-family housing, permanent or transient, and for each dwelling unit in a mobile home park,

1. Ed. Note: See the Utility Board minutes of June 16, 1976.

- A2) as defined in Section 14-1-109, which shall be collected prior to issuance of a building permit:

<u>Inside Corporate Limits</u>	<u>Outside Corporate Limits</u>
\$387.40	\$581.10

3. Each commercial wastewater service shall be charged at the effective rate for single-family wastewater service, as defined above, for each fifteen (15) fixture unit equivalents, as set out in Section 12-5-513 of the City Code.

4. Each service connection in a mobile home subdivision as defined in Section 14-1-109 of the City Code shall be charged at the effective rate for single-family wastewater service, as defined above.

- B. The charges provided herein shall only be increased by the same percentage as the charge for each single-family wastewater service is increased and shall be effective upon such increase.
- C. Payment of the wastewater system development charges provided herein shall be payable in full in cash at the time the building permit is issued or as directed by Council. Such charges shall not be waived for any governmental, quasi-governmental, nonprofit organization, or any other user requesting connection to the wastewater supply system of the City.
- D. Requests for a refund of charges paid under this Section shall be made in writing to the Department of Utilities within one year of payment. (Ord. 86-186)

12-5-606: RECOVERY AGREEMENT CHARGE: A recovery agreement charge may be assessed for each connection to a collection line or use of a pumping facility, where such line or facility was constructed by the City or is the subject of a recovery agreement between the City and the person who constructed such line or facility. Consistent with such agreements, such charge shall be in an amount which represents a prorata share of the cost of construction of the line or facility and shall be collected prior to issuance of a building permit. Recovery agreements existing on the effective date of this Article shall remain in full force and effect.¹ (Ord. 86-186)

12-5-607: RATES AND CHARGES; BASIS FOR:

A. Basis of Wastewater Service Charges.

1. Residential. The amount of water billed for the February billing period of each year shall be the basis for determination of the daily wastewater charge. In the case of new users, user's not using City water or changing service conditions, the Manager may designate an alternative base consumption period. The consumption established during any base period shall be used for the determination of daily wastewater user charges until a new base consumption period occurs as provided herein.

2. All Other. All nonresidential customers shall be billed based on actual water consumption for each billing period. The actual water consumption will be adjusted as determined by the Manager as follows:

(a) **Consumptive Use Allowance:** All nonresidential user classes with nonsewered use, except irrigation, which is greater than ten percent (10%) of their twelve (12) month water consumption, a consumptive use allowance shall be deducted from the monthly water volume for calculating the wastewater charge.

(b) The user of such wastewater service may install at his cost and expense a meter or meters to measure the water subject to a consumptive use allowance and which is not discharged into the wastewater system. Upon determination by the Manager that due to significant situations within the user's facility, a consumptive use allowance cannot be reliably determined within reasonable accuracy by technical evaluation, the Manager may order such user to install at the user's own cost and expense, a suitable meter or meters to measure the water subject to a consumptive use allowance and which is not discharged to the wastewater system. Upon the City's acceptance of the installation of such meters, the user shall transfer ownership of such meters to the City at no expense, for continuing ownership, operation and maintenance.

(c) **Irrigation Allowance:** Nonresidential users with one thousand (1,000) square feet or more of irrigated property shall be given an irrigation allowance based on the number of one hundred (100) square feet increments of irrigated property. The irrigation credit per one

1. The ordinance from which this provision was derived became effective February 27, 1979.

A2c) hundred (100) square feet is computed on a monthly basis for the Colorado Springs area. The computed irrigation allowance shall be deducted from the monthly water volume for calculating the wastewater charge.

B. The suspension of water service and charges therefor for any premises shall relieve such premises from the payment of the monthly wastewater service charges hereby imposed during the period that no charges are made for water. (Ord. 86-186)

12-5-608: RATES AND CHARGES; COMPUTATION OF:

A. The rates and charges computed on the basis of water used as set forth in Section 12-5-607 shall be as follows:

Customer Charge - per day \$ 0.230

Normal Quantity Charge - each
100 cu. ft.:

Biochemical Oxygen Demand (BOD)	\$0.160
Total Suspended Solids (TSS)	0.097
Volume	0.233
Total Normal Quantity Charge	\$ 0.490

Customers located outside the City limits shall be charged an additional Suburban Customer Surcharge - per day \$ 0.182

Minimum Charge - per day	
Inside the City limits	\$ 0.230
Outside the City limits	\$ 0.412

B. Residential customers not connected to the Colorado Springs Department of Utilities Water Distribution System shall be billed for a quantity of 8 Ccf per month on a daily basis and at the rates in subsection A.

C. Commercial users not connected to the Colorado Springs Department of Utilities water distribution system shall be billed based on the method prescribed by the Manager as representative of the user's wastewater contribution volume and at the rates in Subsection A.

D. Surcharge. In addition to the rates and charges imposed by subsection A, designated nonresi-

D) dential user classes will be assessed a surcharge for extra strength wastewater discharges. Designated nonresidential water classes located within and without the City, which discharge biochemical oxygen demand (BOD) and/or total suspended solids (TSS), which exceed the normal domestic strength BOD (282 mg/l) and TSS (178 mg/l), will be assessed a surcharge as determined by the Manager, which determination will be based on assigned classifications and will reflect average BOD and TSS strengths for each classification.

1. The total BOD surcharge is computed by the following formula:

$$Z = a \times b \times c$$

Z = BOD surcharge amount

a = Normal domestic BOD rate per Ccf

b = % by which the classification average discharge BOD exceed the normal domestic discharge BOD (282 mg/l)

c = Water volume used to calculate the wastewater bill

2. The total TSS surcharge is computed by the following formula:

$$Y = d \times e \times c$$

Y = TSS surcharge amount

d = Normal domestic TSS rate per Ccf

e = % by which the classification average discharge TSS exceeds the normal domestic discharge TSS (178 mg/l)

c = Water volume used to calculate wastewater bill (Ord. 86-186)

12-5-609: RATES AND CHARGES; SPECIAL:

A. Discounts: None.

B. Contract Rates: In the case of organized sewer districts, municipal corporations or other similar users of the wastewater treatment system which are furnished wastewater treatment service pursuant to contract, the rates and charges for the use of the wastewater treatment system shall be as specified in said contracts so long as said contracts or renewals thereof remain in force and effect.

C. Tertiary Water Charges: The Division may

- C. dispense nonpotable tertiary water as such waters are available. Such waters shall be dispensed only at pressures, in quantities, and at times as determined by the Manager. The charges for such waters shall be as follows:

1. Irrigation Water - \$.600 per 100 cubic feet.
(Ord. 86-186)

12-5-610: **PERPETUAL LIEN:** Until paid, all charges imposed by this Part 6 shall constitute a perpetual lien on and against the property connected to or served by the wastewater treatment system of the City. Such charges shall be determined and collected as provided in Article 1 of this Chapter. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 5 WASTEWATER TREATMENT CODE

PART 7 INDIVIDUAL WASTEWATER DISPOSAL SYSTEMS

SECTION:

- 12-5-701: Conditions for Use
- 12-5-702: Privy Vaults Prohibited
- 12-5-703: Contents; Removal of
- 12-5-704: Dumping Grounds; Designation of
- 12-5-705: Cessation of Use; When Required

12-5-701: CONDITIONS FOR USE:

- A. Where a collection line is not available to premises under the provisions established in this Article, the wastewater disposal facilities of such premises shall be connected to an individual wastewater disposal system complying with the provisions of this Article and the El Paso County - State Health Individual Sewage Disposal System Regulations as established by the Colorado Department of Health.
- B. The type, capacity, location and layout of an individual wastewater disposal system shall comply with all standards of the Colorado Department of Health. No permit shall be issued for any individual wastewater disposal system employing subsurface soil absorption facilities where the area of the lot does not meet the regulations imposed by the Health Department. No septic tank or existing cesspool shall be permitted to discharge into any natural waterway or surface drainage.
- C. Before commencement of construction of an individual wastewater disposal system on public or private property within the City or in any area under the jurisdiction of the City, the owner shall first obtain written approval signed by the Manager and by a representative of the Health Department. (Ord. 86-186)

12-5-702: PRIVY VAULTS PROHIBITED: It shall be unlawful for any person to construct or maintain a privy vault or receptacle for wastewater disposal or similar device within the limits of the City, and in all instances where such devices are now in use the owner or occupant of such premises shall discontinue the use thereof and install a proper service line or individual wastewater disposal system in accordance with the provisions of this Article. (Ord. 86-186)

12-5-703: CONTENTS; REMOVAL OF: The contents of septic tanks or cesspools within the limits of the City shall not be removed therefrom, nor shall the same be transported through any street, alley or public place within the City, except in a sanitary manner, through or by means of airtight tanks, if soft and mixed with matter, and if solid or dry, in tight covered tanks in such manner as shall prevent the escape of any noxious gases or offensive odors, and preserve such contents from sight or exposure during transportation. All tools, appliances and vehicles used in such cleaning and removal shall be kept and maintained in sanitary condition and shall be subject to inspection and licensing by the Department of Health. (Ord. 86-186)

12-5-704: DUMPING GROUNDS; DESIGNATION OF: The City Manager or City Council shall, with the concurrence and approval of the Department of Health, within the corporate limits of the City, designate the dumping grounds within and upon which any wastewater residue, solid or soft matter or other matter of any kind removed from a cesspool or individual wastewater disposal system may be dumped or otherwise disposed. (Ord. 86-186)

12-5-705: CESSATION OF USE; WHEN REQUIRED: When a collection line becomes available to a property served by an individual wastewater disposal system, and upon receipt of official notice from the Manager to connect to the wastewater system of the City, a direct connection shall be made by a master plumber to the collection line in compliance with this Article and the official notice, and any septic tanks, cesspools and similar individual wastewater disposal systems shall be cleaned and filled with suitable material with approval of the Department of Health. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 5 WASTEWATER TREATMENT CODE

PART 8 PROHIBITIONS AND LIMITATIONS ON WASTEWATER DISCHARGE

SECTION:

- 12-5-801: Wastewater Discharge; Treatment Required
 12-5-802: Wastewater Discharge; Prohibitions
 12-5-803: Wastewater Discharge; Limitations
 12-5-804: Point of Discharge; Limitations
 12-5-805: Disposal; Limitations

12-5-801: WASTEWATER DISCHARGE; TREATMENT REQUIRED: It shall be unlawful for any person to discharge into any natural waterway or any surface drainage within the City, or in any area under the jurisdiction of the City, any wastewater unless suitable treatment of such wastewater has been provided in accordance with the provisions of this Article and applicable County, State or Federal regulations. (Ord. 86-186)

12-5-802: WASTEWATER DISCHARGE; PROHIBITIONS: It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the City any wastewater which contains the following:

- A. **STORM WATER DRAINAGE** from ground, surface, roof headers, catch basins, unroofed area drains (e.g., commercial car washing facilities) or any other source. Also specifically prohibited is water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction.
- B. **INERT SUSPENDED SOLIDS** or other inert particulate matter such as but not limited to, fullers earth, lime slurries and paint residues, resulting in wastewater with a settleable solids concentration greater than twenty five (25) milliliters per liter.

C. **UNUSUAL CONCENTRATIONS OF DISSOLVED SOLIDS**, such as but not limited to, chloride greater than ten thousand (10,000) mg/l and sulfate greater than one thousand (1,000) mg/l. The Manager may reject other unusually high concentrations upon determination that they are incompatible pollutants.

D. **OIL AND GREASE** of the following concentrations, sources of nature:

1. Wastewater containing total grease and oil in excess of one hundred (100) mg/l concentration as measured by Soxhlet extraction set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater¹ or U.S. EPA Manual of Methods for Chemical Analysis of Water and Wastes.

2. Wastewater containing more than twenty five (25) mg/l petroleum, as measured as hydrocarbons by Soxhlet extraction, or other approved method set out in Standard Methods for the Examination of Water and Wastewater. Evidence of oil or grease in wastewater shall be based upon instantaneous or "grab" samples.

E. **EXPLOSIVE MIXTURES** consisting of liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the wastewater system be more than five percent (5%), nor may any single reading be over ten percent (10%) of the lower explosive limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

¹. Published by Water Pollution Control Federation, 2626 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

- F. NOXIOUS MATERIAL consisting of noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into any portion of the wastewater system for its maintenance and repair.
- G. IMPROPERLY SHREDDED GARBAGE that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the wastewater system to which the user is connected. At all times, no particle shall be greater than one-half inch ($\frac{1}{2}$ "') in any direction.
- H. RADIOACTIVE WASTES OR ISOTOPES of such a half-life or concentration that they do not meet regulations set forth by the Colorado Department of Health, State of Colorado, in the latest edition of Rules and Regulations Pertaining to Radiological Control.
- I. SOLID, VISCOUS OR LIQUID WASTES which allow or may cause obstruction to the flow in a collection line or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing fuel or lubrication oil and similar substances.
- J. TOXIC SUBSTANCES in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to section 307(a) of the Act, and chemical elements or compounds, phenols or other taste- or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system or which will be transmitted through the system to receiving water.
- K. SUBSTANCES WHICH ARE NOT AMENABLE TO TREATMENT of prescribed reduction by the treatment process employed by the Division, or
- K) are amenable to such a limited degree of reduction that a discharge of such wastewater would result in effluent discharge from the treatment works that does not meet requirements of State, Federal and other agencies having jurisdiction over discharge or application to receiving waters and/or lands.
- L. WASTES WITH COLOR not removable by the treatment process.
- M. CORROSIVE WASTES which will cause corrosion, deterioration or interference of the City POTW.
- N. ALL WASTEWATER DISCHARGED into the wastewater system must have an instantaneous pH value in the range of five and one-half (5.5) to ten (10) standard units.
 - 1. A more stringent range of acceptable wastewater effluent pH identified in applicable National Categorical Pretreatment Standards shall supersede the range noted herein.
 - 2. Where a continuous pH recording monitor has been installed by the user and approved by the Manager, pH compliance with these applicable sections may also be determined by records inspection indicating effluent pH within the applicable range for a period exceed ninety percent (90%) of the user's operating day.
- O. Spent process chemicals, solutions or materials, hazardous waste as defined by the Federal Resource Conservation and Recovery Act; and other materials normally used in industrial/commercial operations unless specifically authorized in writing by the Manager and after suitable treatment as approved by the Manager has been affected.
- P. HOSPITAL WASTES hospitals, clinics, offices of medical doctor, and convalescent homes shall not dispose of laboratory pathological wastes, surgical operating room wastes or delivery room wastes by discharge to the public sewer.
- Q. BIOCIDES as determined by the Manager in concentrations exceeding 0.02 mg/l unless approved in writing by the Manager. (Ord. 86-186)

12-5-803: **WASTEWATER
LIMITATIONS:**

DISCHARGE;

- A. It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited, any waste or wastewater which fails to comply with the limitations imposed by this Section.
- B. Consistent with the provisions of the Act, no discharger into the wastewater treatment system shall augment his use of process water or otherwise dilute his discharge as a partial or complete substitute for adequate treatment to achieve compliance with these standards.
- C. Limitations on wastewater strength (milligrams/liter) for all users unless elsewhere specified.

Pollutant	4-Day Avg.	Composite Sample	Instantaneous Compl. Sample
Arsenic	2.09	2.09	2.09
Barium	5.0	5.0	5.0
Beryllium	1.0	1.0	1.0
Boron	10.0	10.0	10.0
Cadmium	0.69	1.0	1.4
Chromium (Total)	4.0	4.2	8.4
Chromium (Hexavalent)	1.0	1.0	2.0
Copper	2.7	4.6	9.2
Cyanide (Total)	1.0	2.0	4.0
Cyanide (Amenable to Chlorination)	0.64	0.64	1.28
Lead	0.4	0.6	1.2
Fluorides	32.0	32.0	64.0
Formaldehyde	5.0	5.0	10.0
Cresols	2.0	2.0	2.0
Manganese	1.0	1.0	1.0
Mercury	0.05	0.05	0.05
Nickel	2.6	3.6	7.2
Selenium	2.0	2.0	2.0
Phenols	1.0	1.0	1.0
Silver	0.7	1.2	2.4
Zinc	2.6	3.4	6.8
Total Metals	10.5	10.5	15.0

- D. As determined by the Manager for certain users having a discharge rate of less than ten thousand (10,000) gallons per average operating day, the following limitations may be designated in the user's industrial wastewater discharge permit as applicable in lieu of limitations indicated in paragraph C above unless National Categorical Pretreatment Standards governing such user are more stringent.

Pollutant or Pollutant Property	Composite Sample Maximum Average Concentration Per Operating Day (milligrams/liter)
CN (Cyanide, TOTAL)	2.0
Cr (+ 6) Hexavalent Chromium	1.0
Cd (Cadmium)	1.0
Ni (Nickel)	3.98

- E. All users subject to a National Categorical Pretreatment Standard shall comply with all requirements of such standard, and shall also comply with any limitations contained in this Article. Where duplication of the same pollutant exists, the limitations which are more stringent shall prevail. Compliance with National Categorical Pretreatment Standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standards or by the Manager. Compliance with National Categorical Pretreatment Standards for new sources shall be required upon commencement of discharge.
- F. For pollutants listed herein or regulated in National Categorical Pretreatment Standards, the Manager may designate in the user's discharge permit more stringent limitations for such pollutants. For pollutants not listed herein and not regulated by National Categorical Pretreatment Standards, the Manager may designate in the user's discharge permit prohibitions, limitations or other standards as appropriate governing such pollutants. (Ord. 86-186)

12-5-804: POINT OF DISCHARGE; LIMITATIONS:

- A. It shall be unlawful for any person to discharge any substance directly into a manhole or other opening in the wastewater treatment system other than through an approved service line.
- B. Liquid wastes from chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the wastewater system except at locations authorized by the Manager to collect such wastes within the City.

- C. It shall be unlawful for any person to discharge cooling waters or process waters to a storm sewer or natural outlet unless such person has a valid CDPS permit. (Ord. 86-186)

12-5-805: DISPOSAL; LIMITATIONS:

- A. It shall be unlawful for any person to dispose of wastes where such wastes have been collected and/or held in a tank or other container and where such wastes fail to comply with any limitation set out in Part 8.
- B. The Division shall endeavor to identify and compile a record of those sources which produce or may produce wastes which are or may be in violation of the limitations imposed by this Part 8 and any such record shall be available to any person during normal business hours. However, the limitations imposed by this Part 8 shall apply without regard to the existence, substance or availability of any such record. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 9 CONTROL OF PROHIBITED WASTES

SECTION:

12-5-901: Regulatory Actions; Specific Powers of Manager
 12-5-902: Regulatory Actions; General Powers of Manager
 12-5-903: Pretreatment Facilities; Submission of Plans
 12-5-904: Pretreatment Facilities; Operations
 12-5-905: Admission to Property
 12-5-906: Accidental Discharge; Protection From
 12-5-907: Slug Discharge, Report Required
 12-5-908: Discharge Violation; Failure to Report
 12-5-909: Workplace Notices
 12-5-910: pH Recording Meters

12-5-901: REGULATORY ACTIONS; SPECIFIC POWERS OF MANAGER: If wastewaters containing any substance described in Part 8 of this Article are discharged or proposed to be discharged into any natural waterway, surface drainage within the City, any area under the jurisdiction of the City, into the wastewater collection system of the City or any wastewater system tributary thereto, the Manager may take any action necessary to:

- A. Prohibit the discharge of such wastewater;
- B. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this Article;
- C. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the objectionable characteristics or substance so that the discharge will not violate this Article;
- D. Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating or disposing excess loads imposed on the wastewater treatment system including any fines or legal expenses associated with alleged or actual violations of the City's CDPS Permit attributed to an unpermitted user discharge.

- E. Obtain timely and factual reports from the facility responsible for such discharge; or
- F. Take such other or further remedial action as may be deemed to be desirable or necessary to achieve the purposes of this Article. (Ord. 86-186)

12-5-902: REGULATORY ACTIONS; GENERAL POWERS OF MANAGER: In addition to his authority to prevent or eliminate discharges through enforcement of discharge limitations and prohibitions, the Manager shall have the following authorities:

- A. Endangerment to Health or Welfare of the Community: The Manager, after informal notice to the affected discharger, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, wastewater collection system of the City or any wastewater system tributary thereto, by any means available to him, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.
- B. Endangerment to Environment or Treatment Works: The Manager, after written notice to the discharger may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, wastewater collection system of the City or any wastewater system tributary thereto, by any means available to him, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
- C. The discharges referred to above may be halted or prevented without regard to the compliance of the discharge with other provisions of this Article. (Ord. 86-186)

12-5-903: PRETREATMENT FACILITIES; SUBMISSION OF PLANS: Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the Manager for review and approval. Such approval shall not exempt the user from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Such approval shall not be construed as or act as a guaranty or assurance that any discharge is or will be in compliance with any applicable code, ordinance, rule, regulation, or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the Manager. (Ord. 86-186)

12-5-904: PRETREATMENT FACILITIES; OPERATIONS: If pretreatment or control of wastewater waste flow is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of this Code and all other applicable codes, ordinances, laws, rules and regulations. (Ord. 86-186)

12-5-905: ADMISSION TO PROPERTY: Whenever it shall be necessary for the purposes of this Article, the Manager, upon the presentation of credentials, may enter upon any property or premises at reasonable times, including at any time during the operating day of the user, for the purposes of:

- A. Copying any records required to be kept under the provisions of this Article,
- B. Inspecting any monitoring equipment or method, or pretreatment system operation, and/or
- C. Sampling any discharge of wastewater into the wastewater treatment system.

The occupant of such property or premises shall render all proper assistance in such activities. (Ord. 86-186)

12-5-906: ACCIDENTAL DISCHARGE; PROTECTION FROM: Each user shall provide ade-

quate protection as approved by the Manager from unpermitted discharge of prohibited materials or other wastes regulated by this Article. Facilities and procedures to prevent such discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Manager for review, and shall be approved by him before installation of the accidental discharge protection. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the facilities as necessary to meet the requirements of this Article. (Ord. 86-186)

12-5-907: SLUG DISCHARGE; REPORT REQUIRED: If a facility has a slug discharge, the owner or user of the facility responsible for such discharge shall immediately notify the Manager so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the Manager detailing the date, time and cause of the slug discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future slug discharges, shall be submitted to the Manager by the responsible person within five (5) days of the occurrence of the non-complying discharge. (Ord. 86-186)

12-5-908: DISCHARGE VIOLATION; FAILURE TO REPORT: It shall be unlawful for any person to fail to report to the Manager any discharge which violates the prohibitions and limitations of this Article. (Ord. 86-186)

12-5-909: WORKPLACE NOTICES: A notice or notices shall be permanently posted in an unobstructed, prominent place or places within the working areas of significant industrial users, significant commercial users and significant waste generators which advise employees of whom to call in the event of a dangerous chemical discharge or potential discharge. These users shall insure that all employees who may cause or suffer to cause such a discharge to occur are advised of the emergency notification procedures. (Ord. 86-186)

12-5-910: pH RECORDING METERS:

- A. Significant industrial users which discharge process wastewaters determined by the Manager to contain pollutants necessitating continuous pH adjustment shall, subsequent to notification by the Manager, install a continuous recording pH meter as approved by the Manager. Such meter shall be installed, operated and maintained at the user's own cost and expense. Such records generated by this meter shall be retained for three (3) years and shall be made available to the Manager upon request.
- B. The Manager may order other significant users of the City wastewater treatment system to install and maintain similar equipment as necessary to assure compliance with this Article. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 5 WASTEWATER TREATMENT CODE

PART 10 INDUSTRIAL WASTEWATER MONITORING AND REPORTING

SECTION:

12-5-1001: Reporting Requirements
 12-5-1002: Records and Monitoring
 12-5-1003: Inspection, Sampling and Analysis

12-5-1001: **REPORTING REQUIREMENTS:**

- A. Every significant industrial user shall file an Industrial Wastewater Discharge Questionnaire on forms provided by the Manager. Unless otherwise required by the Manager, these forms shall be completed and filed not later than thirty (30) days after receipt of the report forms from the Manager. The Manager may require any other industrial user discharging or proposing to discharge into the wastewater treatment system to file such reports.
- B. The discharge report shall indicate the current status of the user and shall include, but, in the discretion of the Manager, shall not be limited to, nature or process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled substances or other information which relates to the generation of waste. Such reports may also include the chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged.
- C. Every industrial user shall file an amended discharge report two (2) weeks prior to any planned significant change in operations or wastewater characteristics. If such significant change occurs unknowingly or is unplanned, an amended discharge report shall be filed within seven (7) days after such change becomes known. A significant change shall mean a change which will be in effect for a period of fourteen (14) days or more and shall include but is not limited to:
 1. Change in number of shifts, an additional processing operation, any new regulated substances used which may be discharged.

- C)
 2. A twenty-five percent (25%) increase or decrease in the wastewater flow or production volume.
 3. Any other change which may alter the average normal wastewater characteristics by a factor of one and one-half (1.5) or more.
- D. All users subject to National Categorical Pretreatment Standards shall submit to the Manager a baseline monitoring report on forms provided by the Manager. Such reports shall be submitted within one hundred eighty (180) days of promulgation of the standard or earlier as the Manager deems necessary and at a minimum shall contain:
 1. The name and address of the user;
 2. The location of such user.
 3. The nature, average rate of production and standard industrial classification of the operations carried out by such user;
 4. The average and maximum flow of the discharge from such user to the POTW, in gallons per day;
 5. The nature and concentration of pollutants in the discharge from each regulated process from such user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for the applicable pretreatment standard. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the Manager for approval;
 6. A statement, approved by an authorized representative of the user and certified by a professional engineer, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the user to meet the pretreatment standards and requirements; and

D) 7. If additional pretreatment or operation and maintenance procedures will be required to meet the pretreatment standards, then the report shall contain the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For new users, this report shall be submitted thirty (30) days after receipt of the appropriate forms from the Manager.

E. 90-Day Compliance Reports:

1. New Sources: All new sources subject to existing Categorical Pretreatment Standards shall submit a report to the division within ninety (90) days from the date of first discharge demonstrating actual and continuing compliance with those standards.

2. Existing Sources: All existing sources required to comply with newly promulgated Categorical Pretreatment Standards shall submit a report to the division within ninety (90) days of the date on which compliance is required with those standards demonstrating that actual and continuing compliance with such new standards has been achieved.

3. Such 90-day Compliance Report shall contain at a minimum:

a. The nature and concentration of all pollutants in the discharge from regulated processes,

b. The average and maximum daily flow from the regulated processes, and

c. A statement of compliance signed by the authorized representative of the company and certified by a qualified professional which indicates:

i. Whether the applicable pretreatment requirements are being met on a consistent basis, or

ii. If the applicable pretreatment standards are not being met, what pretreatment procedures and equipment are necessary to attain compliance.

F. Self Monitoring Compliance Report: Any user subject to a National Categorical Pretreatment Standard, shall submit to the Manager during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Manager, a self-monitoring report on forms provided by the Manager indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards.

G. Should the Manager deem it necessary to assure compliance with provisions of this Article, any nonresidential user of the City wastewater treatment system may be required by the Manager to submit a Wastewater Discharge Questionnaire on forms provided by the Manager. Any user subject to this reporting requirement shall submit a completed report no later than thirty (30) days after receipt of the notification and appropriate forms.

H. Any holder of an Industrial Wastewater Discharge Permit, Commercial User Discharge Permit, Waste Generator Discharge Permit or Pumper Permit shall submit to the Manager such additional reports as specified as conditions of the user's permit or otherwise deemed necessary by the Manager.

I. All reports and questionnaires required to be submitted by the above provisions shall bear the signature of an authorized representative of the discharging entity attesting to the accuracy of said document. Such reports and records shall be retained by the user for a minimum period of three (3) years and shall be made immediately available upon request of the Manager. (Ord. 86-186)

12-5-1002: **RECORDS AND MONITORING:**

A. All industrial users who discharge or propose to discharge wastewater to the wastewater treatment system shall maintain such records of production and related factors, effluent flows and amounts or concentrations of controlled substances as are necessary to demonstrate compliance with the requirements of this Article and any applicable State or Federal pretreatment standards or requirements.

- B. All such records shall be retained by the user for a minimum period of three (3) years, shall be made immediately available upon request of the Manager at any time during said three (3) year period or so long as actually retained.
- C. Should the Manager deem it necessary to fulfill the purposes of this Code, the owner or operator of any premises or facility discharging industrial wastewater into the wastewater system shall install at his own expense suitable monitoring facilities or equipment which isolates appropriate wastewater discharges into the wastewater system and facilitates accurate observation, sampling and measurement of appropriate discharges. Such equipment shall be maintained in proper working order and kept safe and accessible at all times.
- D. Where practical, the monitoring equipment shall be located and maintained on the industrial user's premises outside of the building. When such a location would be impractical or cause undue hardship to the user, the Manager may allow such facility to be constructed in the public street or easement area, with the approval of the City agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- E. When more than one user is able to discharge into a common service line, the Manager may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the Manager may require that separate service lines and connections and monitoring facilities be installed for each separate discharge.
- F. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the Manager's requirements and all applicable construction standards and specifications.
- G. To fulfill the purposes of this Code, the Manager may order other significant, nonresidential users of the City POTW to maintain similar records and/or install and maintain similar facilities or equipment as noted above. (Ord. 86-186)

12-5-1003: **INSPECTION, SAMPLING AND ANALYSIS:**

- A. Compliance determinations with respect to Part 8 prohibitions and limitations shall be made on the basis of either instantaneous compliance samples or composite samples of wastewater as determined by the Manager. Such samples shall be taken at a point or points which the Manager determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty four (24) hour period, or over a longer or shorter time span, as determined by the Manager to meet specific circumstances.
- B. Laboratory analysis of wastewater samples shall be performed in accordance with the current edition of Standard Methods for Chemical Analysis of Water and Wastewater published by the American Public Health Association, American Water Works Association, Water Pollution Control Federation and the Annual Book of Standards, Part 23, Water, Atmospheric Analysis, published by the American Society for Testing and Materials, Methods for the Chemical Analysis of Water and Wastes, published by the U.S Environmental Protection Agency, or the appropriate Technicon Industrial Method, published by Technicon Instruments Corporation. Metals analysis will use a sample preparation technique at least as rigorous as acidification to a pH of less than 2. The determination may be run on the decant, contrate, or filtrate of the acidified sample. When a sample is run using different sample preparation techniques, the highest measured concentration will be used to determine compliance. Analysis of those pollutants not covered by these publications shall be performed in accordance with procedures approved by the Manager. The test results of laboratory analysis performed by the Division in accordance with this Section shall be presumed to be correct unless shown otherwise by competent evidence.
- C. Sampling of industrial wastewater for the purpose of determining compliance with respect to Part 8 prohibitions and limitations will be performed by the Division at such intervals as the Manager may designate. However, it is the goal of this Section that the Manager conduct sampling or cause such sampling to be conducted for all major contributing industries at least four (4) times per year.

- D. The Manager shall promulgate rules, regulations and procedures as necessary to insure that any and all samples obtained by Division employees can be accounted for from the time said samples are obtained to the time said samples are disposed. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES

ARTICLE 5 WASTEWATER TREATMENT CODE

PART 11 INDUSTRIAL DISCHARGE PERMIT SYSTEM

SECTION:

- 12-5-1101: Wastewater Discharge Permits Required
- 12-5-1102: Discharge Permit; Application for
- 12-5-1103: Discharge Permit; Issuance of
- 12-5-1104: Discharge Permit; Denial of; Hearing
- 12-5-1105: Discharge Permit; Conditions
- 12-5-1106: Discharge Permit; Duration
- 12-5-1107: Applicant to be Notified of Proposed Permit Conditions, Right to Object
- 12-5-1108: Discharge Permit; Transfer
- 12-5-1109: Discharge Permit; Revocation
- 12-5-1110: Septic Tank Pumpings; Disposal Permit Required
- 12-5-1111: Pumper Permit; Revocation

12-5-1101: WASTEWATER DISCHARGE PERMITS REQUIRED: All significant industrial users, significant commercial users or significant waste generators proposing to connect to or discharge into any part of the wastewater treatment system shall obtain a discharge permit therefor. All existing significant industrial users connected to or discharging into any part of the wastewater system shall obtain a wastewater discharge permit within ninety (90) days from and after the effective date of this Article. All existing significant commercial users and significant waste generators shall obtain a discharge permit within ninety (90) days from notification by the Manager that such permit is required. A separate permit is required for each building or complex of buildings on a separate platted lot with a separate service connection. (Ord. 86-186)

12-5-1102: DISCHARGE PERMIT; APPLICATION FOR:

- A. Users seeking a wastewater discharge permit shall complete and file with the Manager, by the date specified an application on the form prescribed by the Manager. In support of this application, the user shall be required to submit the following information:

- 1. Name, address and user classification number of the applicant;

- A)
 - 2. Average daily discharge rate of wastewater;
 - 3. Wastewater constituents and characteristics, including but not limited to those set forth in Part 8 of this Article as determined by an analytical laboratory approved by the Manager;
 - 4. Time and duration of discharge;
 - 5. Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
 - 6. Site plans, floor plans, mechanical and plumbing plans and details to show all service lines and appurtenances by size, location and elevation;
 - 7. Description of activities, facilities and plant processes on the premises, including all materials and types of materials which are, or could be, discharged into the wastewater system;
 - 8. Each product produced by type, amount and rate of production;
 - 9. Number and type of employees, and hours of work; and
 - 10. Any other information deemed by the Manager to be necessary to evaluate the permit application.
- B. Users required to obtain a Commercial User Discharge Permit or Waste Generator Discharge Permit shall complete and file with the Manager an application on the form prescribed by the Manager. Such application shall be filed within thirty (30) days of receipt of the application form from the Manager.
- C. There shall be and there is hereby established a Wastewater Discharge Permit application charge of:
 - 1. Seventy five dollars (\$75.00) for each Industrial Wastewater Discharge Permit application.

- C) 2. Thirty five dollars (\$35.00) for each Commercial User Discharge Permit application.
3. Fifteen dollars (\$15.00) for each Waste Generator Discharge Permit application.

Such discharge permit charge shall be payable by the applicant at the time the application is submitted. Checks shall be made payable to the Colorado Springs Department of Utilities.

- D. The Manager shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Manager may issue a wastewater discharge permit subject to the terms and conditions provided herein. (Ord. 86-186)

12-5-1103: DISCHARGE PERMIT; ISSUANCE OF:

- A. The Manager shall issue a wastewater discharge permit to the applicant if the Manager finds that all of the following conditions are met:
1. The proposed discharge of the applicant is in compliance with the prohibitions and limitations of Part 8 of this Article;
 2. The proposed operation and discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system; and
 3. The proposed discharge of the applicant would not result in a violation by the City of the terms and conditions of its CDPS Permit or pass through of any toxic materials to the environment.
- B. If the Manager finds that the condition set out in subsection A1 of this Section is not met, the Manager may issue a wastewater discharge permit to the applicant if the conditions set out in subsections A2 and A3 of this Section are met and if the applicant submits, and the Manager approves, a schedule setting out the measure to be taken by the applicant and the dates that such measures will be implemented to insure compliance with the provisions of this Article. (Ord. 86-186)

12-5-1104: DISCHARGE PERMIT; DENIAL OF; HEARING:

- A. In the event an application for a wastewater discharge permit is denied, the Manager shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
- B. Upon receipt of notification of denial of a permit application, the applicant may request and shall be granted a hearing to be held by the Director. At such hearing the applicant shall have the burden of establishing that the conditions set out in Section 12-5-1103 of this Article have been met and that a permit should be issued.
- C. The Director may conduct the hearing and take the evidence or may designate a representative to:
1. Issue in the name of the Director notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to the matter involved in such hearings;
 2. Take the evidence;
 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, to the Director together with recommendations for action thereon.
- D. Testimony taken at any public hearing shall be under oath and recorded stenographically. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- E. Upon review of the evidence by the Director, the Director shall make written findings of fact. Thereupon the Director may issue an order directing the Manager to issue a wastewater discharge permit, or directing that such permit shall not be issued, or give such other or further orders and directives as are necessary and appropriate.
- F. Any party to the hearing aggrieved or adversely affected by an order of the Director may appeal such order to the District Court in and for the County of El Paso, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 86-186)

12-5-1105: DISCHARGE PERMIT; CONDITIONS:

Wastewater discharge permits shall be expressly subject to all provisions of this Code and all other regulations, user charges and fees established by the City. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this Article and applicable State and Federal regulations. Permit conditions may include the following:

- A. The unit charge or schedule of charges and fees for the wastewater to be discharged to the system;
- B. Reporting requirements to indicate chemical materials purchased, used, disposed and method of disposal, including a description of and limitations placed upon the discharge point;
- C. Limits on rate, time, and characteristics, including average and maximum wastewater constituents and characteristics, of discharge or requirements for flow regulation and equalization;
- D. Requirements for installation of inspection and sampling facilities and specifications for monitoring programs and/or recordkeeping;
- E. Requirements for maintaining and submitting technical reports and records relating to wastewater discharges, quantities or general characteristics of process tank contents; and/or information concerning hazardous or toxic waste materials generation and disposal;
- F. Daily average and daily maximum discharge rates or other appropriate conditions, when substances subject to limitation and prohibition are proposed or present in the user's wastewater discharge;
- G. Compliance schedules;
- H. Requirements for the installation of facilities or implementation of procedures to prevent and control slug discharges of regulated materials at the user's premises;
- I. Other conditions to ensure compliance with this Article;
- J. Upon request by the Manager, all records kept pursuant to this Section shall be submitted to the Manager for review. (Ord. 86-186)

12-5-1106: DISCHARGE PERMIT; DURATION:

- A. Discharge permits shall be issued for a specified time period, not to exceed three (3) years. A permit may be issued for a period of less than one year, or may be stated to expire on a specific date. If the user is not notified by the Manager thirty (30) days prior to the expiration of the permit, the permit shall automatically be extended for one year only. The terms and conditions of the permit may be subject to modification and change by the Manager during the life of the permit, as limitations or requirements as identified in this Article are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change unless said change is initiated by a violation of this Wastewater Treatment Code. Any such change or new condition in the permit shall include a reasonable time schedule for compliance.
- B. Annual permit renewal charges shall be set as follows:
 - 1. Industrial Wastewater Discharge Permit: Seventy five dollars (\$75.00);
 - 2. Commercial User Discharge Permit: Thirty five dollars (\$35.00);
 - 3. Waste Generator Discharge Permit: Fifteen dollars (\$15.00). (Ord. 86-186)

12-5-1107: APPLICANT TO BE NOTIFIED OF PROPOSED PERMIT CONDITIONS; RIGHT TO OBJECT:

- A. Upon completion of his evaluation the Manager shall notify the applicant of any permit conditions which he proposes.
- B. The applicant shall have fourteen (14) days from the date of the notification to file written objections with the Manager to any permit conditions. The Manager may, but shall not be required to, schedule a meeting with the applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning permit conditions;
- C. If applicant files no objection to permit conditions

- C) proposed or if a subsequent agreement is reached concerning same, the Manager shall issue a wastewater discharge permit to applicant with such conditions incorporated. (Ord. 86-186)

12-5-1108: DISCHARGE PERMIT; TRANSFER:

Wastewater discharge permits are issued to a specific user for a specific operation. No permit shall be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation. (Ord. 86-186)

12-5-1109: DISCHARGE PERMIT; REVOCATION: Any violation of the conditions of

a permit or of this Article or of applicable State and Federal regulations shall be reason for revocation of such permit. Upon revocation of his permit, any wastewater discharge from the affected user shall be considered prohibited and illegal. Grounds for revocation of a permit include, but are not limited to, the following:

- A. Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;
- B. Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- C. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
- D. Falsification of records, reports or monitoring results relating to chemical materials;
- E. Tampering with monitoring equipment; or
- F. Violation of conditions of the permit. (Ord. 86-186)

12-5-1110: SEPTIC TANK PUMPINGS; DISPOSAL PERMIT REQUIRED:

- A. Septic tank pumpings are subject to Part 8 of this Article except as indicated herein and persons disposing of such pumpings at the designated disposal facilities shall obtain a pumper permit as specified. There shall be and there is hereby established a Pumper Permit charge of twenty dollars (\$20.00) annually. Such charge shall be payable by the applicant at the time the application is submitted. Checks shall be made payable to the Colorado Springs Department of Utilities.

- B. Users seeking a permit to use the disposal facilities shall complete and file with the Manager an application on the form prescribed by the Manager. In support of this application, the user at a minimum shall be required to submit the following information:

- 1. Name and address of permittee;
- 2. Number, capacity and type of vehicles that will utilize the facility.
- 3. Other items as the Manager deems appropriate to assure compliance with this Article.

- C. There shall be a disposal charge of three dollars twenty cents (\$3.20) per one thousand (1,000) gallons of septic tank pumpings discharged into the designated dumping station. Such charge shall be payable on a monthly basis and shall be collected by the Department of Utilities.

1. Accounting and billing of each septic tank dumping will be accomplished by use of an electronic card reading and printing device located at the dumping site.

2. Each vehicle using the dumping facility must have a pass card issued by the Division, which card shall identify the company, vehicle permit number, and volume the vehicle contains.

3. There shall be established a charge of five dollars (\$5.00) per card for replacement of lost pass cards. Damaged or otherwise unusable pass cards shall be replaced free of charge.

- D. Permits to use the disposal facilities of the City are subject to all provisions of this Article and all other regulations, charges and fees established by the City.
- E. Pumpings disposed of at disposal facilities of the City shall be subject to sampling to determine compliance with all applicable provisions of this Article.

Limitations and prohibitions governing these pumpings are contained in Section 12-5-802 of this Article excepting as follows in milligrams per liter:

POLLUTANT	INSTANTANEOUS COMPLIANCE
	SAMPLE
FEGO	10,000
Hydrocarbon	10,000

- F. Pumper Permit Conditions:

F) 1. Pumper Permits shall be issued for one year. All terms and conditions of the permit may be subject to modification and change by the Manager during the life of the permit.

2. A Pumper Permit may not be transferred, reassigned, or sold.

3. Pumper Permit renewal must be applied for and an updated permit application submitted to the Manager at least thirty (30) days prior to the expiration date contained in the permit.

4. Conditions contained in the Pumper Permit may include but is not limited to:

a. Firm name, address, phone number.

b. Authorized representative information and signature.

c. Certification of permit condition acceptance.

d. Restrictions of hours of operation if applicable.

e. Conditions upon which permit revocation may occur.

f. Limitation on FEGO, hydrocarbon or other pollutants.

g. Permit number, card number(s).

h. Recordkeeping and reporting requirements.

i. Maintenance of rules and regulations of the Division and Health Department regarding proper cleanliness and sanitary conditions.

j. Other conditions or limitations as appropriate.

5. Pumper authorization cards shall be issued for each truck utilizing the facility.

a. Properly issued cards shall be designated in the pumper permit identifying specific truck issued to card number and date issued.

b. Authorization cards shall be properly affixed and displayed in the lower right hand corner of the windshield of each truck utilizing the facility.

F) 6. Pumper truck contents shall be subject to sampling and analysis by Division employees at any time.

7. All reports and records required to be retained by this Article shall be retained for a minimum of three (3) years and shall be made available immediately upon request by the Manager.

G. Hours of operation for use of the Wastewater Division disposal facility shall be between six o'clock (6:00) A.M. and six o'clock (6:00) P.M. each day. The Manager may approve a temporary change in hours of operation to reflect unusual circumstances.

H. Any significant change in the information provided by the user on the Pumper Permit application form shall be reported to the Manager as follows:

1. Fourteen (14) days prior to known date of a planned significant change.

2. Within seven (7) days after known date of an unplanned significant change.

3. For purposes of this Section, significant change shall mean:

a. Change in number of disposal vehicles operated by the user.

b. Replacement of a disposal vehicle operated by the user.

c. Alteration of tank size of any disposal vehicle operated by the user.

d. Other items as specified in the user's Pumper Permit. (Ord. 86-186)

12-5-1111: PUMPER PERMIT; REVOCATION:

A. All Pumper Permits issued to any person may be revoked upon a finding by the Manager that any of the following conditions exist:

1. Such person has failed to pay septic tank pumping disposal charges within sixty (60) days after such charges were due and payable;

2. Such person or representative thereof has improperly used and/or maintained the disposal facilities of the City in violation of guidelines established by the Manager;

- A)
 - 3. Such person or representative thereof failed to display a permit copy upon request by a representative or employee of the Division;
 - 4. Such person or representative thereof has changed, altered or otherwise modified the face of a permit or authorization card without the permission of the Manager;
 - 5. Such person or representative thereof has violated any condition of the permit.
 - 6. Falsification of any records, reports or monitoring results required to be maintained, or the failure to immediately make available such items to the Manager upon his request.
- B. Any Pumper Permit which has been revoked pursuant to this Section may be reinstated upon a finding by the Manager that the condition which resulted in such revocation no longer exists.
- C. Upon determination of a Code or Pumper Permit violation any permitted pumper shall be subject to the enforcement actions outlined in Part 12 of this Article. (Ord. 86-186)

CHAPTER 12 DEPARTMENT OF UTILITIES
ARTICLE 5 WASTEWATER TREATMENT CODE
PART 12 ENFORCEMENT

SECTION:

12-5-1201: Administrative Violations
 12-5-1202: Violation of Discharge Limitations
 12-5-1203: Unclassified Violations
 12-5-1204: Enforcement Procedures
 12-5-1205: General Penalties
 12-5-1206: Field Notice of Observed Violation
 12-5-1207: Extra Monitoring Charge
 12-5-1208: Notification
 12-5-1209: Disclosure, Availability to Public
 12-5-1210: Trade Secrets; Confidentiality of
 12-5-1211: Public Notice of Significant Violations

12-5-1201: ADMINISTRATIVE VIOLATIONS:

A. There is hereby established a class of violations to be known as administrative violations which are further subdivided into minor and major violations as follows:

1. Minor administrative violations include, but are not limited to, the following:

- a. Submission of incomplete reports;
- b. Failure to submit reports in a timely manner;
- c. Failure to respond to questionnaires;
- d. Missing a compliance date without proper prior notification to the Division.

2. Major administrative violations include, but are not limited to the following:

- a. Failure to notify the Manager of a slug discharge or violation of permit conditions;
- b. Failure to respond to letters requiring response or to administrative orders;
- c. Missing a compliance date by more than 90 days;
- d. Falsification of documents or attempting

A2) to mislead City officials in any manner whatsoever;

e. Failure to cooperate with officials exercising their authority under this chapter;

f. A pattern of minor administrative violations.

3. Upon notice of appropriate mitigating circumstances, the Manager has sole discretion to treat a major administrative violation as a minor administrative violation. (Ord. 86-186)

12-5-1202: VIOLATION OF DISCHARGE LIMITATIONS:

A. There is hereby established a class of violations to be known as discharge violations which are further subdivided into minor and major violations as follows:

1. Minor discharge violations are those that, either alone or in combination with similar user discharge violations, pose no significant threat to the public health, safety, welfare or the environment or the City's POTW.

2. Major discharge violations include, but are not limited to the following:

a. Discharge violations which, either alone or in combination with similar user discharge violations, pose, as determined by the Manager, a significant threat to the public health, welfare, safety or the environment or to the safe and efficient operation of the city POTW or cause or contribute to the incurrence of extra costs of treatment by the City or a violation of the City's CDPS permit;

b. Discharging regulated pollutants to the City's POTW without a current discharge permit;

c. Discharge of a hazardous or toxic pollutant not within the scope of the permit and without prior written approval of the Manager;

d. A pattern of minor discharge violations;

- A2) e. Failure to correct a minor discharge violation within a reasonable time period as specified by the Manager.

f. Tampering with or purposely rendering inaccurate any monitoring device, method or record required to be maintained pursuant to this Article.

- B. Upon notice of appropriate mitigating circumstances, the Manager has sole discretion to treat a major discharge violation as a minor discharge violation.

C. Upsets:

1. Defined: an "upset" is defined as an exceptional incident which causes temporary and unintentional noncompliance with the discharge limitations or prohibitions applicable to the user and which is beyond the reasonable control of the user. Upsets do not include incidents or non-compliance caused by:

- a. Operational error;
- b. Improperly designed treatment facilities;
- c. Inadequate treatment facilities;
- d. Lack of preventative maintenance;
- e. Careless or improper operation; or

f. A reduction, loss or failure of the user's treatment facility including, but not limited to, a power outage.

2. Claims of an upset shall constitute an affirmative defense to a charge that a user has violated discharge limitations or prohibitions if and only if the requirements of subsection 12-5-1202 C 3 are satisfied.

3. In order to claim that an upset has occurred, the user must meet the following requirements:

- a. The user must be able to identify the specific cause of the claimed upset;
- b. The user must establish prudent operation of the facility at the time of the claimed upset;
- c. The user must demonstrate compliance with operation and maintenance procedures at the time of the claimed upset;

- C3) d. The user must establish that notice to the POTW of the incident was effected within 24 hours, and that said notice described the discharge and its cause, the period of non-compliance, and the steps being taken at the time of notification to prevent a recurrence of the incident.

4. The burden of proving that an upset has occurred shall be on the user. (Ord. 86-186)

12-5-1203: **UNCLASSIFIED VIOLATIONS:** For any violation which is not classified herein, or for the violation of any rule or regulation promulgated hereunder, the Manager shall have the discretion to treat such violation as a minor or major violation and to exercise his enforcement authority accordingly. (Ord. 86-186)

12-5-1204: **ENFORCEMENT PROCEDURES:**

- A. Minor Violations: Whenever the Manager has reason to believe that any user is guilty of a minor violation, he may serve upon such user a written notice stating the nature of the violation and providing a reasonable time, not to exceed thirty (30) days, for the satisfactory correction thereof. A meeting with the Manager may be scheduled at the request of the violating user or Manager to discuss the violation and/or satisfactory correction schedule.

B. Show Cause Hearing:

1. Whenever the Manager has reason to believe that any user is guilty of a major violation, he may order any person potentially responsible for such violation to appear before the Director and show cause why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the Director regarding the violation, and directing the offending party to show cause before the Director why an order should not be made directing the termination of service. The notice of the hearing shall be served personally or by certified mail at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

2. The Director may conduct the hearing and take evidence, or may designate a representative to:

B2) a. Issue in the name of the Director notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing;

b. Take the evidence;

c. Transmit a report of the evidence and hearing to the Director, including transcripts and other evidence, together with recommendations for action thereon.

3. At any public hearing, testimony taken before the hearing authority or any person designated by it, shall be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

4. Upon review of the evidence by the Director, the Director shall make written findings of fact. Thereupon the Director may:

a. Issue an order stating that no major violation has occurred and directing that service shall not be terminated therefor;

b. Issue an order stating that a major violation has occurred and directing that, following a specified time period, the wastewater treatment service of the offending party be discontinued unless;

i. Adequate treatment facilities, devices or other appurtenances shall have been installed, or

ii. Existing treatment facilities, devices or other appurtenances are properly operated or maintained; or

c. Issue such other or further orders and directives as are necessary and appropriate.

5. Any party to the hearing aggrieved or adversely affected by an order of the Director may appeal such order to the District Court in and for the County of El Paso, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 86-186)

12-5-1205: **GENERAL PENALTIES:**

A. In addition to the remedies provided in Section 12-5-1204, any user who is found to be in violation of any provision of this Code or any rule or regulation promulgated hereunder shall be guilty of a misdemeanor and may be punished as follows:

1. Minor Violations: Any user found guilty of a minor violation will be subject to a fine of not more than three hundred dollars (\$300.00) per violation.

2. Major Violations: Any user found guilty of a major violation will be subject to a fine of not more than one thousand dollars (\$1,000.00) per violation, by imprisonment in jail for a period not to exceed six (6) months, or both.

3. Continuing Violations: Each separate day of a continuing violation shall be treated as a separate offense.

4. Upon conviction or admission of guilt and the setting of a penalty, the City may allow credit against payment of a penalty for the monies expended by the user for the purchase and installation of technology required to bring the user into compliance with the requirements of this Code.

B. In addition to other remedies for enforcement provided herein, the Manager may petition the State of Colorado and/or the U.S. Environmental Protection Agency, as appropriate, to exercise such methods of enforcement or remedies as are available to those entities, and he is hereby authorized to seek injunctive relief for noncompliance by industrial users, as that term is defined by Federal law, with pretreatment standards and requirements. (Ord. 86-186)

12-5-1206: **FIELD NOTICE OF OBSERVED VIOLATION:**

A. Upon a finding by the Manager or his duly authorized representative that during inspection or a sampling of a user, a violation of this Article or applicable requirements has or is occurring, he may serve upon such user a certified notice of violation on the form prescribed by the Manager.

- B. After receipt of this notice, the user may appeal the Manager to consider compliance or other items contained in such notice. Appeal shall be made no later than five (5) working days after receipt of the notice or prior to the date upon which corrective action has been ordered, whichever comes first.
- C. Failure to comply with or correctly sign this notice shall be considered a minor violation under this Code, and in addition to penalties provided therefor, shall subject the user to possible revocation of his discharge permit, and/or discontinuance of his service. (Ord. 86-186)

12-5-1207: EXTRA MONITORING CHARGE:

- A. The Manager may assess an extra monitoring charge to any user who is found to have:
 - 1. Discharged a waste which causes an obstruction, damage, interference or other impairment to the City POTW,
 - 2. Committed a significant violation of this Article, or
 - 3. Failed to comply with provisions of the user's discharge permit.
- B. The amount of this charge shall be determined by the Manager and may include:
 - 1. Sampling and analysis costs.
 - 2. Time, material and equipment costs incurred as a result of inspection procedures.
 - 3. Costs incurred in the administrative analysis of all pertinent information, or extraordinary costs incurred by the POTW as a result of discharge such as time, material and equipment costs including polymer usage, preventing or correcting interference of POTW, etc.
 - 4. Other associated costs as the Manager may deem necessary.
- C. The affected user shall be notified in writing by the Manager of the extra monitoring situation within five (5) days of determination.
- D. Such fee shall be payable by the user within thirty (30) days of being notified of final cost.

12-5-1208: NOTIFICATION: The Manager shall attempt to notify in writing any user whom he has cause to believe is subject to a National Categorical Pretreatment Standard; General Pretreatment Standards; or other applicable requirement promulgated by the US EPA under the provisions of section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solids Waste Disposal Act. Failure of the Manager to so notify users shall not relieve said users from the responsibility of complying with applicable requirements. (Ord. 86-186)

12-5-1209: DISCLOSURE, AVAILABILITY TO PUBLIC: Except as otherwise provided in Section 12-5-1210, all records, reports, data or other information supplied by any person as a result of any disclosure required by this Chapter shall be available for public inspection. (Ord. 86-186)

12-5-1210: TRADE SECRETS, CONFIDENTIALITY OF:

- A. The provisions of Section 12-5-1209 shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include but shall not be limited to processes, operations, style of work or apparatus or confidential commercial or statistical data.
- B. Information designated as a trade secret pursuant to subsection A of this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the City charged with enforcing the provisions of this Chapter.
- C. It shall be unlawful for any officer, employee or authorized representative of the City to divulge in any manner or to any extent not authorized by judicial order or other provision of law information supplied pursuant to any requirement of this Chapter, when such information has been designated as a trade secret pursuant to subsection A of this Section. In addition to any other penalties that may be imposed, any officer, employee or authorized representative of the City who violates the provisions of this subsection shall be subject to discharge from the employ of the City.

12-5-1211: PUBLIC NOTICE OF SIGNIFICANT VIOLATIONS: On or about the first day of March of each year, the Manager shall cause to be published one time in at least one daily newspaper of general circulation in the City, a notice of all significant violations which occurred subsequent to the preceding annual notice. The annual notice shall include, but is not limited to, the name of the violator, date of violation, and general nature of the violation. (Ord. 86-186)

CHAPTER 13
PUBLIC SERVICE CORPORATIONS

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ARTICLE 2	CABLE TELEVISION SYSTEMS
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CHAPTER 13 PUBLIC SERVICE CORPORATIONS

ARTICLE 2 CABLE TELEVISION SYSTEMS

PART 4 REGULATION OF RATES

SECTION:

- 13-2-401: Charges to be Reasonable
- 13-2-402: City Council to Regulate Rates
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13-2-401: CHARGES TO BE REASONABLE:

- A. All charges made, demanded or received by any operator licensed pursuant to this Article for any product or service rendered or to be rendered shall be just and reasonable.
- B. Every unjust or unreasonable charge made, demanded or received by any such operator is hereby prohibited and declared to be unlawful. (Ord. 4817)

13-2-402: CITY COUNCIL TO REGULATE RATES:

The City Council shall govern and regulate all rates, charges and tariffs of every operator licensed pursuant to this Article in order to prevent unjust or unreasonable rates, charges and tariffs in connection with cable television services rendered within the City. The City Council shall supervise and regulate all such operators and shall further do all things which are necessary or convenient in the exercise of such power. (Ord. 4817; 1980 Code)

13-2-403: REPORTS TO CITY COUNCIL: Every operator shall furnish to the City Council at such time and in such form as the Council may require a report in which the operator shall

specifically answer under oath all questions propounded by the City Council concerning any matter on which it may desire information. (Ord. 4817)

13-2-404: RATE SCHEDULES FILED WITH CITY CLERK; CHANGES:

- A. Under such rules and regulations as the City Clerk may prescribe, every operator shall file with the office of the City Clerk within such time and in such form as the Clerk may designate, a schedule showing all rates, charges and classifications charged or to be charged by such operator, together with all rules, regulations, privileges and facilities which in any manner affect or relate to such rates, classifications or service. Such schedule shall be available for public inspection at all reasonable hours.
- B. Every operator shall also file in the office of the City Clerk copies of all written contracts for cable television service.
- C. Whenever a change is proposed in any rate, charge or classification, in any form of contract or agreement, in any rule or regulation relating to or affecting any rate, charge, classification or service or in any privilege or facility, attention shall be directed to such change immediately preceding or following such item on the schedule filed with the City Clerk. (Ord. 4817)

13-2-405: RATE CHANGE; NOTICE REQUIRED:

- A. No change shall be made by any operator in any rate, charge or classification, or in any rule or regulation relating to or affecting any facility, except after sixty (60) days prior notice to the City and to the public.

- B. Notice to the City shall be given by filing with the City Clerk and maintaining for public inspection new schedules stating clearly the changes to be made in the schedules then in effect, and the date the changes are to become effective.
- C. Notice to the public shall be given by publication of such new schedules and their effective date for one day in a local daily newspaper of general circulation. (Ord. 4817)

13-2-406: RATE CHANGE; EXCEPTION TO NOTICE REQUIREMENT:

- A. For good cause shown, the City Council may allow any change specified in Section 13-2-404C of this Part 4 without requiring sixty (60) days' prior notice by adopting a resolution specifying the changes to be made, the effective date of such changes, and the manner in which such changes shall be filed and published.
- B. Any such changes rendered without notice shall be conditional for a period of ninety (90) days, and after a hearing had upon its own motion or upon complaint, the Council may revoke or modify any such changes which the Council finds to be unjust, unreasonable, discriminatory, preferential or otherwise in violation of any provision of this Article or other law.
- C. Upon any such revocation or modification within the ninety (90) day conditional period, the Council may direct the operator to refund any charges determined to have been improper. (Ord. 4817)

13-2-407: INVESTIGATION BY CITY COUNCIL: Upon its own motion or upon complaint, the City Council may upon hearing investigate any and all rates, charges, classifications or regulations at any time before or after such rates, charges, classifications or regulations become effective. No such hearing shall be held except upon ten (10) days' prior written notice to the operator, to such operator's last known address. (Ord. 4817, 1980 Code)

13-2-408: MODIFICATION OF RATES BY CITY

COUNCIL: Whenever the City Council, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, classification or regulation of any operator licensed pursuant to this Article is unjust, unreasonable, discriminatory or preferential, is otherwise in violation of this Article or any other law, or is insufficient, the Council shall determine a just, reasonable or sufficient rate, charge, classification or regulation to be thereafter observed and in force, and shall fix the same by resolution. (Ord. 4817)

13-2-409: FREE SERVICE, PREFERENCES PROHIBITED:

- A. Unless otherwise provided in this Article, no operator shall, directly or indirectly, issue, give or tender any free cable television service or other gratuity of services or any reduced rate unless a tariff so providing is first filed with the City Clerk and approved by the City Council.
- B. Unless otherwise provided in this Article, no operator shall make or grant any preferences or advantage in rates, charges, service, facilities or in any other respect to any person nor subject any person to any prejudice or disadvantage in such rates, charges or service.
 - 1. No operator shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect either between localities or as between any class of service.
 - 2. The City Council may determine any question of fact arising under this subsection B. (ord. 4817)

CHAPTER 13 PUBLIC SERVICE CORPORATIONS

ARTICLE 2 CABLE TELEVISION SYSTEMS

PART 5 SUPPLEMENTAL REGULATIONS

SECTION:

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- 13-2-502: Operator to Defend Suits
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- 13-2-505: Provisions Not Applicable to Pay Television
- 13-2-506: Cable Television System as a Public Utility

13-2-501: REQUIRED SERVICES: Any operator licensed pursuant to this Article shall, upon request therefor, provide and furnish without charge to Colorado College, the University of Colorado at Colorado Springs, each elementary and secondary public school now located in El Paso County School Districts numbered 2 and 11, each elementary and secondary public or parochial school and each eleemosynary, nonprofit educational institution now located within the corporate limits of the City, the Colorado Springs City Hall, the Colorado Springs Public Library, the Colorado Springs police station and each Fire Department station within the City, the following:

- A. One service outlet for main regular channel television reception for educational and other programming or reception furnished by the operator;
- B. An additional service outlet in each room or area where television reception is desired, provided that the using outlet shall reimburse the operator at its actual cost basis for labor and material required in the installation of such service outlets which are additional to the main outlet, but no service or other charge shall be made after installation;
- C. For each school or other educational institution included within an authorized television service in this Section and the Colorado Springs Public Library, three (3) channels for exclusive school use, primarily for educational instruction and like uses in the transmission of programs or

- C) signals for educational instruction and like purposes. Additionally, all equipment and devices for said three (3) channels and transmission and operating facilities and equipment between the head or originating part of the cable and cable television system and the using outlet or receiving part of the cables and system so that the cables and system shall be made available to provide and make possible the following:

1. Educational instruction and similar uses with the programs originated or distributed at the school, educational institution or library studio or at a studio to be provided and maintained by the operator, as desired by the using outlet.

2. The reception of such educational or other programs as may be transmitted and furnished by the operator in accordance with the provisions of this Article.

- D. The operator shall operate and maintain at its expense in accordance with the best accepted standards of the industry all cables, equipment and appliances required by this Section.
- E. The operator shall construct a studio and make the same available at reasonable times for educational, public, quasi-public or similar programs, live or taped, to be distributed or transmitted without charge and as provided in this Section. The operator shall also provide and make available at the cost of such operator the necessary cable equipment and system from the school or other using studio to the operator's studio to allow a program to be distributed live or taped, from a studio or control room to be provided at the expense of the school, educational institution or library within this Section.
- F. The cable equipment and system required by this Section shall be operated and maintained in accordance with standards not

- F) less than those prescribed by the Electrical Industry Association.
- G. The services required by this Section to be furnished by the operator shall be applicable to each school, educational institution, fire station or library as described in this Section, located within any area hereafter annexed to the City, provided that in the case of a school or educational institution, such school or institution must be situated within one-quarter ($\frac{1}{4}$) mile of the cable television cable installation of the operator. (Ord. 3499)

13-2-502: OPERATOR TO DEFEND SUITS:

- A. Any operator licensed pursuant to this Article shall at its own expense defend all suits that may be brought against the City as a result of the construction or operation of such operator's cable television system or based on infringement of copyrights, patents or similar violations.
- B. Any such operator shall hold harmless the City from any and all damages, judgments, costs and expenses arising out of or connected with the installation or operation of such cable television system. (Ord. 3499)

13-2-503: OFFICE, REPAIR SERVICE REQUIRED:

- A. All operators licensed pursuant to this Article shall maintain an office within the City and shall provide within the City a maintenance and repair service readily available to its subscribers through telephone or other means during all hours that signals are being transmitted in its cable television system.
- B. The cable television system of all such operators shall be in operation twenty four (24) hours per day. (Ord. 3499)

13-2-504: CERTAIN OPERATIONS PROHIBITED: No operator licensed pursuant to this Article shall engage in the business of renting, repairing, selling or installing television sets, radios, antennae or other electronic devices for the reception of electronic signals except those

devices used in connection with its cable television system within the City. (Ord. 3499)

13-2-505: PROVISIONS NOT APPLICABLE TO PAY TELEVISION: Nothing in this Article shall be construed to regulate services known as pay television, that is, the sale of programs on a per program or per channel basis. (Ord. 3499; 1980 Code)

13-2-506: CABLE TELEVISION SYSTEM AS A PUBLIC UTILITY: A cable television system is a public utility for the purpose of use of a public utility easement. (Ord. 81-46)

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SECTION:

13-3-101: Duty to Maintain Crossings

13-3-101: DUTY TO MAINTAIN CROSSINGS:

Each and every railroad company operating a railroad in or through the City is hereby required to put any public highways or streets crossing the tracks of such company, and to thereafter maintain same, in such condition and state of repair as not to interfere with the free and proper use of such public highways or streets, unless otherwise provided by contract. (Ord. 960; 1968 Code § 2-11)

1. For regulatory power of the Public Utilities Commission, see C.R.S. 1973, Title 40.

CITY CODE
OF
COLORADO SPRINGS
COLORADO

1980



STERLING CODIFIERS, Inc.

35 West Commercial
Weiser, Idaho



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STERLING CODIFIERS, INC.

Weiser, Idaho

**THIS VOLUME II OF THE
COLORADO SPRINGS CITY CODE
CONTAINS CHAPTERS 14 THROUGH 21.**

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CHAPTER 14 ZONING

ARTICLE 1 GENERAL PROVISIONS

SECTION:

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14-1-101: **TITLE:** This Chapter shall be known as the "Zoning Ordinance of the City of Colorado Springs" and may be so cited and pleaded. (Ord. 80-131; 1968 Code § 14-1)

14-1-102: **INTENT AND PURPOSE:** This Chapter is designed to encourage the most appropriate use of land throughout the City to insure a logical growth of the various physical elements of the City; to lessen congestion in the streets, and to facilitate the adequate provision of transportation; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to improve housing standards; to conserve property values; to facilitate adequate provisions for water, sewage, schools, parks and other public requirements; to protect against flood conditions and poor geologic conditions and in general to promote health, safety and general welfare. The regulations within this Chapter shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout the City.

It is the intent and purpose of the Zoning Ordinance to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise and excessive traffic. Certain uses are not compatible in close proximity to each other. The hours of operation of

certain liquor establishments and the noise, traffic noise and the noise in relation to the hours of operation make these uses incompatible with residential uses. The objectionable impacts of these uses on residential uses can be mitigated to some degree by a separation of uses. (Ord. 81-131; Ord. 81-149; 1968 Code § 14-2)

14-1-103: **INTERPRETATION:** Where any provision of this Chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Chapter shall govern. (Ord. 80-131; 1968 Code § 14-3)

14-1-104: **REGULATIONS TO APPLY WITHIN CORPORATE LIMITS OF CITY:** The regulations prescribed in this Chapter shall apply within the corporate limits of the City. (Ord. 80-131; 1968 Code § 14-4)

14-1-105: **DEVELOPMENT OF LAND BOTH WITHIN AND WITHOUT THE CITY LIMITS:** Any proposed zone district, the location of which will include land both within and without the City limits, shall be considered in its entirety and the portion lying within the City limits shall be considered as a part of the entire development in the consideration of area, setback, off-street parking, loading and land coverage requirements. If the major portion of the development is outside the City, and the governing body having jurisdiction over that portion of the land has similar provisions for control of the development, some of the requirements pertaining to the portions of the plan lying within the City may be varied or waived by the Planning Commission and its recommendations concerning the entire project may be forwarded to the above mentioned governing body. (Ord. 80-131)

14-1-106: **ZONING MAPS, BOUNDARIES OF ZONES:**

A. Maps. The boundaries of the zones referred to in the succeeding sections are hereby established as shown on a map entitled "Zoning Map, Colorado Springs", together with "Sectional District Zoning Maps" supplementary thereto. These maps indicating the latest amendments shall be kept up to date and on file in the office of the Planning Department for the use and benefit of the public. Such maps, amendments and all notions, references and other information and data shown thereon are hereby adopted and made a part of this Chapter.

B. Boundaries of Zones. In determining the boundaries of zones shown on the map referred to in the preceding paragraph, the following rules shall apply:

1. Streets or Alleys. Unless otherwise indicated, the zone boundaries are the centerline of streets, parkways, waterways or railroad rights of way or such lines extended. Where street, alley or other rights of way lie adjacent to each other, the zone boundary is the imaginary line bisecting the combined width of the adjacent rights of way or such line extended.

2. Block and Lot Lines. Where the zone boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks less than two hundred fifty feet (250') wide, the boundaries are median lines between their sides. Boundaries within blocks two hundred fifty feet (250') or more wide are one hundred twenty five feet (125') distant from the less restricted side of the blocks.

3. Unsubdivided Land. In unsubdivided property, boundaries on the map referred to in the first paragraph of this Section shall be determined by use of the scale indicated on such maps.

4. Vacated Street or Alley. In the event a dedicated street or alley shown on the map is vacated by ordinance, the property formerly in the street or alley shall be included within the zone of the adjoining property on either side of the vacated street or alley. In the event the street or alley was a zone boundary between two (2) or more different zones, the new zone boundary shall be the former center line of the vacated street or alley.

5. Discrepancy in Plat Layouts. Where the street layout or stream course actually on the ground

B5) varies from the layout as shown on the zoning map or any other condition which has not be provided for, the Planning Director shall interpret the map according to the reasonable intent of this Chapter, or refer the decision to the Planning Commission at a regularly scheduled meeting.

C. Zoning of Lots. A lot may have only one zone. (Ord. 80-131; Ord. 85-43; Ord. 86-229; 1968 Code § 14-6)

14-1-107: CONFORMITY WITH REGULATIONS

REQUIRED: Except as herein specified, no building, structure or land shall hereafter be used and no building or part thereof or other structure shall be erected, raised, moved, structurally altered, converted, extended or enlarged, except in conformity with the regulations specified in this Chapter for the zone in which it is located.¹ (Ord. 80-131)

14-1-108: ZONES:

A. For the purpose of this Chapter, the City is hereby divided into zones to be known as follows:

Zone	Description	Section
PUD	Planned Unit Development	14-3- 101
A	Agricultural	14-3- 201
R	Estate-Single-Family	14-3- 301
R-1 9000	Single-Family	14-3- 401
R-1 6000	Single-Family	14-3- 501
R-2	Two-Family	14-3- 601
R-4	Eight-Family	14-3- 701
R-5	Multi-Family	14-3- 801
MHP	Mobile Home Park	14-3- 901
MHS	Manufactured Home Subdivision	14-3-1001
OR	Office-Residential	14-3-1101
OC	Office Complex	14-3-1201
PBC-1	Planned Business Center	14-3-1301
PBC-2	Planned Business Center	14-3-1401
C-5	Intermediate Business	14-3-501
C-6	General Business	14-3-601
PIP-1	Planned Industrial Park	14-3-1701
PIP-2	Planned Industrial Park	14-3-1801
M-1	Light Industrial	14-3-1901
M-2	Heavy Industrial	14-3-2001
APD	Airport Planned Development	14-3-2101
SU	Special Use	14-3-2201
RVP	Recreational Vehicle Park	14-3-2301
SP	Special Permit	14-3-2401
P	Planned Provisional (Overlay)	14-3-2501
NP	Navigation Preservation (Overlay)	14-3-1601
HR	High Rise (Overlay)	14-3-2701
FP	Flood Plain (Overlay)	14-3-2801
HS	Hillside (Overlay)	14-3-2901
	Mining	14-3-3001

The following sequential order shall be followed as to more restrictive zones. (Categories are

1. Note: See Article 13 of this Chapter for nonconforming uses.

- A) separate and not interchangeable except for the OR and OC zones which are interchangeable between residential and commercial).

Category	Less Restrictive	More Restrictive
Residential	SU,R-5,R-4,R-2,R-1	6000,R-1 9000,R,A,MHS,MHP,PUD
Commercial	C-6,C-5,PBC-2,PBC-1,OC,OR,RVP	
Industrial	M-2,M-1,PIP-2,PIP-1	

- B. Zone Group Classification. Whenever the terms "R Zones", "C Zones", or "M Zones" are used, they shall be deemed to refer to all zones containing the same letters in their names; e.g., C Zone shall include the C-5 and C-6 zones. (Ord. 80-131; Ord. 81-102; Ord. 82-115; Ord. 83-45; Ord. 85-43)

14-1-109: **DEFINITIONS:**¹ Except where specifically defined herein, all words used in this Chapter shall carry their customary meanings, when not inconsistent with the context. Words used in the present tense include the future, and the plural includes the singular; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; and "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied".

ABUT: Contiguous to; for example two (2) lots with a common property line.

ACCESS: The place, means or way by which vehicles shall have safe, adequate and usable ingress and egress to a property, use or parking space.

ACCESSORY STRUCTURE: A detached structure located on the same lot as the principal building which is devoted exclusively to an accessory use.

ADJOINING LOT: The lot separated from the lot under consideration by a rear lot line, side lot line or alley.

ADULT USES: See Article 11.

ALLEY: A narrow public or private way less in size than a street, designed for the special accommodation of the property it reaches, and not intended for general travel.

AMBULANCE SERVICE BUSINESS: Licensed by El Paso County and operated under regulations of applicable local law.

AMENDMENT: A change in the wording, context or substance of Chapter 14 of the Colorado Springs City Code or a change in the zone boundaries or area district boundaries upon the zoning map.

APARTMENT HOUSE: Same as "Dwelling, multiple".

AUTOMOBILE: Any powered vehicle including cars, trucks, buses, motorcycles, etc.

AUTOMOBILE DISMANTLING YARD: Any lot, plot, parcel of land or contiguous parcels of land used for the purpose of dismantling used cars and the salvage and resale of used parts. The aforesaid use shall not include scrap metal processing yards, automobile storage yards or junk yards.

AUTOMOBILE STORAGE YARD: Any lot, plot, parcel of land or contiguous parcels of land used for the purpose of storing damaged, wrecked, inoperable or impounded automobiles. The aforesaid use shall not include scrap metals processing yards, automobile dismantling yards or junk yards.

AUTOMOBILE AND TRAILER SALES AREA: An open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done, except minor incidental repair of automobiles or trailers to be displayed, sold or rented on the premises.

BAR AREA: An area of restaurant where the primary business is the sale and consumption by the drink of alcoholic liquor, or three and two-tenths percent (3.2%) beer as defined by Chapter 9, Article 1, Part 1 of this Code.

BARBER: A person who engages in any of the practices of barbering.

BARBERING: Any one or combination of the following practices when done upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailment and when done for payment either directly or indirectly or when done without payment for the public generally: shaving or trimming the beard; cutting the hair; giving facial or scalp massage or treatment with oils, creams or lotions, or other chemical preparations, either by hand or with mechanical appliances; dyeing the hair

1. For definitions of general application, see Section 1-1-203 of this Code.

or applying hair tonic; applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, neck, or shoulders.

BARBERSHOP or BEAUTY SALON: A fixed establishment or place where one or more persons engaged in the practice of barbering.

BATH FACILITIES: This must include toilet and shower or bath.

BED AND BREAKFAST INN: An establishment that provides temporary accommodations to overnight guests for a fee.

BICYCLE STORAGE SPACE: A space for one standard bicycle within an adequately lighted, secure bicycle rack, placed on a paved surface.

BUILDABLE AREA: That portion of the lot that can be occupied by the principal and accessory uses, this excluding the front, side and rear yards.

BUILDING: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

BUSINESS PARK: An assembly of buildings adaptable to a combination of office, light storage, distribution, and showroom uses, where a minimum of twenty five percent (25%) of the floor area is used for office space.

CEMETERY: Place of burial for earth interments, mausoleum for crypt interments, a columbarium for cinerary interments or a combination of more than one thereof.

CIVIC EVENT: An event which is of civic or public benefit. The event must be sponsored by a public charitable or nonprofit group or organization and shall not be for personal or private gain. Said event must further the athletic, benevolent, cultural, educational, historical, medical, political, public, patriotic, religious, scientific or social service objectives of the sponsor. This may include fund raising activities for the charitable or nonprofit group or organization.

COMMISSION, PLANNING COMMISSION: The Colorado Springs City Planning Commission.

CORRAL: A pen or enclosure for confining hoofed animals.¹

COURT YARD: An open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building.

DAY CARE CENTER: A facility, which is licensed under the regulations of the State of Colorado and which is maintained for less than twenty four (24) hours per day for the care of persons, children or adults, and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care, and with or without stated educational purposes. The term shall include facilities commonly known as "day care homes", "day care center", "day nurseries", "nursery schools", Kindergartens", "pre-schools", "play groups", "centers for handicapped children", "centers for handicapped adults", "centers for the elderly", "centers for the mentally/emotionally disordered", and shall include those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or private or parochial school, except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system for at least sixth grade; further, the term "kindergarten" shall mean any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, pre-school, or by any other name. The term shall not include any facility known as a family care home. Occasionally twenty four (24) hour care may be provided in day care centers on an emergency basis only.

DENSITY: The number of dwelling units that may be constructed per acre.

Density (Gross) - including all public rights of way.

Density (Net) - excluding all public rights of way.

DEPARTMENT, PLANNING DEPARTMENT: The Colorado Springs City Planning Department.

DESIGNATED CITY OFFICIAL: The Planning Director or employee of the City Planning Department designated by the Planning Director to perform duties outlined in this Chapter.

DEVELOPMENT PLAN: See Article 5 of this Chapter.

DEVELOPMENTALLY DISABLED: Those persons having a disability that is manifested before the person reaches age twenty two (22), is likely to continue

1. Note: See Article 3 of Chapter 11 of this Code.

indefinitely, constitutes a substantial handicap to the affected individual and is attributable to mental retardation, or related conditions which include cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons; or if under age five (5) are determined to be at risk of such, and require treatment or services similar to those required by mentally retarded persons.

DIMENSIONAL VARIANCE: An exemption from the provisions of Chapter 14 that relate to setbacks, lot width at building setback line, lot area, lot coverage and height of a structure.

DIRECTOR OF PUBLIC WORKS: The Director or his designated representative.

DRIVE-IN FOOD BUSINESS: A place of business where persons are served in powered vehicles from a refreshment stand, restaurant, food store and the like.

DWELLING: A building, or a unit thereof, which is used exclusively for residential occupancy, and which includes only one kitchen facility per building or unit thereof, as the case may be.

DWELLING, ATTACHED: A building having one or more walls or portions of a wall in common with another building. This definition shall include terms such as townhouse, duplex, rowhouse, patio home, atrium house and similar terms.

DWELLING, MULTIPLE: A building or portion thereof, used for occupancy by three (3) or more families.

DWELLING, ONE-FAMILY: A detached building used exclusively for occupancy by one family which may include lodgers or boarders as limited by regulations for accessory uses.

DWELLING, TWO FAMILY: A detached building may be used exclusively for occupancy by two (2) families, which may include lodgers or boarders when permitted as an accessory use.

EDUCATION INSTITUTION: Education institution shall mean public schools, nonpublic schools, schools administered and operated by the State and colleges or universities and proprietary schools. The following definitions shall apply to the various types of education institutions:

Public Schools. Those schools administered by legally organized school districts.

Nonpublic Schools. All private, parochial and independent schools which provide education of compulsory school age pupils comparable to that provided in the public schools of the State. The term comparable shall mean a schedule of at least one hundred eighty (180) days of actual teacher-pupil teaching days, at least a five and one-half (5½) hour school day in grades one through six (6) and at least a six (6) hour school day in grades seven (7) through twelve (12), and at least fifty percent (50%) of the school's full-time teachers must hold valid Colorado teaching certificates.

Proprietary Schools. Schools such as art schools, business colleges, trade schools and secretarial colleges.

Colleges or Universities. Such education institutions under charter or license from the State of Colorado.

ELDERLY: A person over the age of sixty (60) years.

EROSION PREVENTION TREATMENT: Erosion prevention treatment shall mean the application to the graded areas in hillside areas by plantings and/or other devices which will serve to prevent the soil erosion of such graded areas.

EXCAVATION: The mechanical removal of earth material.

FACTORY BUILT HOME: A single-family dwelling which is partially or entirely manufactured in a factory and designed for long-term residential use; built in multiple sections, each on a chassis which enables it to be transported to its occupancy site. Factory built homes must be constructed to the standards of the State of Colorado Factory Built Housing Construction Certification Code (8 CCR 1302-3) and bear a certification insignia in compliance with those standards.

FAMILY: The term family as used in this Code shall mean an individual or two (2) or more persons related by blood, marriage, adoption or similar legal relationship, or a group of not more than five (5) persons who need not be so related, plus domestic staff employed for services on the premises, living together as a single housekeeping unit in a one-family dwelling or in one

unit of a two-family or multiple family dwelling or in one unit of two (2) family or multiple family dwelling. The definition of "family" shall apply regardless of whether any member of such group receives outside services for mental, emotional, or physical disability.

FENCE, LATTICE: Any fence which has less than fifty percent (50%) open space in its vertical surface and further providing that the open spaces shall not exceed two and one-half inches (2½").

FILL: A deposit of earth material by mechanical means.

FINANCIAL INSTITUTION: "Financial institution" for the purpose of this Chapter shall mean a State bank or bank and trust company chartered by the State of Colorado or a national bank or an industrial bank chartered by the State of Colorado or a Federal credit union or a State credit union or a domestic savings and loan association organized under the laws of the State of Colorado, or a foreign savings and loan association organized under the laws of any other state, territory or nation or a Federal savings and loan association organized under the Homeowners Loan Act of 1933.

FLOOR AREA: The area of the floor within surrounding walls for a building, or portion thereof, exclusive of vents, shafts, courts.

FRONTAGE: The length of the longest front lot line of the lot, or the length within the lot of a line substantially parallel with the longest front line and distant therefrom no greater than the required least front yard depth, whichever is longer.

FRONT LOT LINE: Front lot line shall mean the line separating such lot from any street, but not including alleys. In the case of corner lots, there shall be as many front lot lines as there are street frontages.

GAME ROOM: A business which provides entertainment by means of coin-operated amusement devices as defined in Section 8-2-501 of the City Code.

GARAGE, PRIVATE PARKING: A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles for the tenants, employees or owners of the property for which the parking spaces contained in or on said garage are required by this Chapter and are not open for use by the general public.

GARAGE, PUBLIC PARKING: A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons or clients which are required by this Chapter; provided said parking spaces are clearly identified as free parking spaces for the building or use required to provide said spaces.

GARAGE, REPAIR: A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul and incidental storage or parking of vehicles, but excluding the storage of junk vehicles.

GARAGE SALES: The sale or offering for sale articles of tangible personal property by the owner, lessee or other occupant of a dwelling. The term garage sale shall include patio sale, yard sale, or any similar sale.

GOLF COURSE: Public, semi-public or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto, and consisting of at least sixty (60) acres for each standard nine (9) hole course, and twenty five (25) acres for each nine (9) hole "par 3" course.

GRADING: Any excavating or filling or combination thereof.

GREEN HOUSE: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants or vegetables for subsequent sale or for personal enjoyment.

GROSS FLOOR AREA: The total of the horizontal areas of the floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces and maneuvering areas, or any space where the floor-to-ceiling height is less than six feet (6').

HEARING OFFICER: A designated representative of the community development department who hears matters pursuant to Section 14-18-101, et. seq.

HEIGHT OF BUILDING: The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the roof surface of a flat roof; to the deck line of a mansard

roof; and to the average height between the plate and the ridge of a gable, hipped or gambrel roof, provided that no part of such roofs shall extend more than five feet (5') above the permitted height. The average elevation of the finished grade adjoining the building shall be the average of the exposed exterior elevations of all corners of building. The height of a stepped or terraced building is the maximum height of any segment of the building.

HOME IMPROVEMENT CENTER: Business which offers for sale hardware, tools, lumber, electrical and plumbing supplies and similar construction materials.

HOME OCCUPATION: An accessory use in a residential zone involving:

- A. The manufacture, production, creation, or assembly of tangible personal property for the purpose of sale, either on or off the premises, or
- B. The growing of plants for the purpose of sale, either on or off the premises, or
- C. The storage of stock-in-trade or inventory for the purpose of sale, either on or off the premises, or
- D. The sale or offering for sale of plants or tangible personal property as a commercial activity on the premises, or
- E. The sale or offering for sale of a service on the premises.

HOSPITAL: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

HOTEL: A building, or portion thereof, used for the more or less temporary occupancy of individuals who are lodged with or without meals and in which there are accommodations for more than fifteen (15) persons. Includes the term motel.

HUMAN SERVICE ESTABLISHMENT: See Article 12.

INTERMEDIATE CARE BOARDING HOME: See Section 14-12-102 for definition.

JUNK: Used, broken, discarded or abandoned materials. This shall include wood, paper, glass, rags,

rubber, metal, concrete or other personal property and rubbish as defined in this Chapter, whether of value or valueless. It shall also include automobiles and appliances or parts thereof, which are no longer in operable condition.

JUNK VEHICLE: Any automobile, recreational vehicle or mobile home which is inoperable, dilapidated or unlicensed or is being dismantled or is partially dismantled.

JUNK YARD: The use of any lot, plat, parcel or contiguous groups of the same for the sale, storage display, dismantling, demolition, abandonment or discarding of junk as defined in this Section.

KENNEL: An establishment where an excess of four (4) dogs or four (4) cats of the age of four (4) months or more are kept with or without charge.

KITCHEN FACILITIES: This must include the necessary facilities to store and prepare food.

LAND DEVELOPMENT TECHNICAL COMMITTEE AND REDEVELOPMENT TECHNICAL COMMITTEE: These Committees are made up of representatives from appropriate City departments. These Committees are assigned to review and make recommendations on land development and redevelopment matters.

LEGAL DESCRIPTION: A legal description is an accurate, complete written account of the tract of land in question, including its size, configuration and location; becoming a legal description when such instrument is filed with the County Recorder.

LOADING SPACE: Off-street loading space as required by this Chapter must be ten feet (10') wide, thirty feet (30') long and fourteen feet (14') high, exclusive of adequate area for ingress, egress and turning maneuvers.

LOT: A parcel of land shown as a lot on a recorded final plat, or a parcel of land which meets the requirements of Sections 15-3-1402 and 15-3-1403 of this Code, or a parcel of land where the City Planning Department has approved and has had recorded a property boundary adjustment to lots as shown on a recorded final plat, or a parcel of land composed of two (2) or more finally platted lots for which the owner has recorded a statement combining such lots for use as a single zoned lot.

LOT, CORNER: A lot at the junction of and fronting on two (2) or more intersecting streets.

LOT DEPTH: The least distance from the rear lot to the front lot line.

LOT, FLAG: A lot which the front lot line abuts one or more rear or side lot lines of adjacent lots. Primary access is by a private or privately shared drive leading to a street. The front lot line of a flag lot is that property line most parallel to the street from which access is gained.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINES: The property lines bounding a lot.

LOT COVERAGE: The percentage of the area that can be used for the building or buildings on a lot.

LOT OF RECORD: A parcel of land, the deed of which was recorded in the public records of El Paso County, Colorado, on or before January 1, 1952.

LOT, THROUGH: A lot having frontage on two (2) parallel or approximately parallel streets.

MANUFACTURED HOME: A single-family dwelling which is partially or entirely manufactured in a factory, is not less than twenty four feet (24') in width and thirty six feet (36') in length, is installed on an engineered permanent foundation, has brick, wood or cosmetically equivalent exterior siding and a pitched roof, and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401, et. seq., as amended, and is built for the Colorado climate and snow loads according to the Department of Housing and Urban Development standards established under the provisions of 42 USC 5401, et. seq.

MANUFACTURING: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

MASTER PLAN or AREA MASTER PLAN: A plan for the development of a portion of the City which contains a generalized transportation system, proposed land use, and shows the relationship of the area included in the plan to surrounding property. Master plans are more specific than the Comprehensive Plan. See Article 2.

MEMBERSHIP CLUBS: Country clubs, lodges and other clubs not including clubs the chief activity of which is a service customarily carried on as a business.

MENTALLY/EMOTIONALLY DISORDERED: Persons with a severe or persistent mental or emotional disorder that limits their capacities relative to aspects of daily living such as personal relations, living arrangements, work, recreation, etc. This term includes mental illness.

MINI-WAREHOUSES: Buildings designed primarily for the storage of household items and inventory of small commercial businesses where storage units are individually leased or rented, where access to storage units is infrequent and where no utilities are provided except for the service of a manager's apartment and for lighting of individual storage units.

MOBILE HOME: Any wheeled vehicle, exceeding eight feet (8') in width or thirty two feet (32') in length, including towing gear and bumpers, without motor power, built on a permanent chassis designed for long-term residential occupancy or temporary office use and containing complete electrical, plumbing and sanitary facilities and designed to be installed in permanent or semi-permanent manner without a permanent foundation which is capable of being drawn over public highways by a motor vehicle. If a mobile home meets the criteria as factory built housing or a manufactured home, it shall not be considered to be a mobile home.

MOBILE HOME PARK: Any tract of land held under single ownership or unified control upon which two (2) or more mobile homes, occupied for residential purposes, are located and for which a charge is made for such accommodations, and shall include any structures used or intended for use as a part of such park.

MOBILE HOME PARK SPACE: A designated parcel of land within a mobile home park designed to accommodate either a mobile home or permanent recreational vehicle and accessory structures and to which utility services are provided.

MOBILE HOME SUBDIVISION: A tract of land subdivided into two (2) or more lots or parcels for the purpose of transfer of ownership or development of lots or both upon which are to be placed mobile homes or trailer coaches by property owners for residential purposes. A mobile home subdivision is a subdivision designed and intended primarily for the sale of lots where residence is in mobile homes exclusively.

MOTOR VEHICLE: Any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways.

MOTOR VEHICLE REPAIR: a service or industry involving the maintenance, servicing, repair, painting, or other work on vehicles including but not limited to body or fender work, engine and transmission overhaul, or other work incidental to the servicing of such vehicles.

NONCONFORMING BUILDING: A building or structure, or portion thereof, lawfully existing at the time this Chapter became effective, that does not conform to all the height, yard, lot coverage and area regulations of the zone in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the time this Chapter or any amendments to this Chapter become effective and which does not conform with the use regulations of the zone in which it is located.

NURSERY: Land or building used to raise flowers, vegetables, shrubs, trees and plants for sale.

NURSING HOME: A State licensed health care facility which provides essential care on a twenty four (24) hour basis by medical professionals to provide short term convalescent or rehabilitative care or long term care to individuals who by reason of advanced age, chronic illness or infirmity are unable to care for themselves.

ON PREMISES LIQUOR ESTABLISHMENTS: Any establishment selling the drink, alcoholic liquor or three and two-tenths percent (3.2%) beer as defined by Chapter 9, Article 1, Part 1 of this Code.

PARKING SPACE, OFF-STREET: A storage area for an automobile that is directly accessible to a maneuvering and access area, and which is not located in a public right-of-way.

PERMANENT RECREATIONAL VEHICLE: A single-family dwelling, containing complete sanitary facilities, which is principally intended for recreational use but can accommodate long-term residential use, and which is no less than seventeen feet (17') in length.¹

PHARMACY: A permanent establishment where prescriptions or chart orders are compounded and dispensed, and where drugs, proprietary or patent medicines, medicines and poisons are exposed to the public and are sold at retail, and where other items are sold that are incidental to and form a part of the science or art of the pharmaceutical profession, study or training. A pharmacy shall sell only the abovementioned items and no others. Pharmacy includes the space or area used for such purposes.

PLANNING DEPARTMENT: The phrase "Planning Department" wherever it appears shall mean the planning division of the Department of Community Development pursuant to Section 2-5-102 of the Code of the City of Colorado Springs 1980, as amended.

PLANNING DIRECTOR: When this term is used, the term shall also include "or his designee".

PORCH: A roofed or unroofed open structure projecting from the front, side or rear wall of a building. For the purposes of this Chapter, a porch is considered a part of the principal building and is not permitted to extend into any required yards.

PRESERVATION AREA: That portion or area of a lot(s) which is set aside in the form of a restriction for the purpose of retaining land or water features in their natural state, scenic or open conditions. This restriction may prohibit in whole or in part: (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, gravel, soil, rock or other mineral substance in such manner to affect the surface, (v) activities detrimental to drainage, flood control, erosion control or soil conservation, or (vi) other acts or uses detrimental to such retention of land or water areas.

PRINCIPAL BUILDING OR USE: The main or primary purpose for which land or a structure or use therefor is designed, arranged or intended, or for which it may be occupied or maintained under this Chapter. All other structures or uses on the same lot and incident or supplementary thereto and permitted under this Chapter shall be considered accessory uses.

PUBLIC NOTICE:

Publication of the notice in a newspaper of general circulation in the City, designated for that purpose by the City Council, not more than thirty (30) days nor less than ten (10) days prior to the date of hearing or other matter about which the notice is given; and

By posting upon a sign the notice to be given at least ten (10) days prior to the hearing or other matter about which the notice is given. Said sign shall be placed at points along the perimeter of the property concerned so as to be visible from

¹ See Article 1 of Chapter 17 for additional requirements.

any adjacent ways or streets, and so located as to provide opportunity for actual notice to owners of surrounding properties and the public. Posting may be outside the perimeter if in the opinion of the Planning Director the posting offers more visibility for public notice.

RACE TRACK: An establishment which provides a course for racing animals or motor vehicles, an area for spectators, stables or kennels for the animals and parking lots.

REAR LOT LINE: Rear lot line shall mean that lot line which is opposite and most distant from the front lot line. But in the case of corner lots, the owner shall, for the purpose of this Chapter, have the privilege of selecting any lot line, other than one of the front lot lines, to be the rear lot line. The rear lot line of any irregular or triangular lot shall, for the purpose of this Chapter, be a line entirely within the lot, ten feet (10') long.

RECREATIONAL VEHICLE: A vehicle used for temporary habitation and used for travel, vacation and recreation purposes. The term recreational vehicle shall include travel trailers, campers, motor homes, truck campers and similar terms.

RELIGIOUS INSTITUTION: Establishment for the conduct of religious activities, including accessory housing. This term includes the terms church, temple, seminary, retreat, monastery and similar terms.

RESIDENTIAL ZONE: Any zone within the category of residential as set forth in Section 14-1-108 of this Chapter.

RESTAURANT: An establishment whose primary business is the sale of food in a ready to consume state.

RETIREMENT HOME: A residential facility other than a hotel, where for compensation either paid directly or indirectly, lodging and meals are provided for the elderly (over sixty [60] years). No continuous medical or personal care is provided by the operators of the home.

ROOMING HOUSE: A residential building, other than a hotel, where for compensation either paid directly or indirectly, lodging and meals are provided for not more than fifteen (15) roomers in addition to members of the family. No continuous medical or personal care is provided by the operators of the home.

SCRAP METALS PROCESSING YARD: Any lot, parcel

of land or contiguous parcels of land used for the purpose or purposes of storing, processing or shipping of scrap metals. The aforesaid use shall not include automobile storage or dismantling yards.

SETBACK: Shortest distance from property line to building restriction line or structure. (See Yard)

SIDE LOT LINE: Side lot line shall mean any lot line not a front lot line or a rear lot line.

SMALL PERSONAL CARE BOARDING HOMES: See Section 14-12-103 for definition.

SOCIAL SERVICE CENTER: An establishment which provides services such as medical, dental or psychological care, distribution of food or clothing, hot meals or some recreational activities (but not including overnight lodging) to persons in need due to poor economic circumstances, age or social disability.

STABLE, COMMERCIAL: A building for the housing of horses, mules, ponies or other hooved animals which are hired, bred, boarded or shown on a commercial basis.

STABLE PRIVATE: A building for the keeping of not more than four (4) horses, mules, ponies or other hooved animals owned by the occupant(s) of the principal residential structure, and not kept for remuneration, hire or sale.

STOOP: A platform or entrance stairway adjacent to a walkway providing pedestrian access to a building.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet (6') above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve feet (12') above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

STREET: A permanently reserved thoroughfare which affords principal means of access to abutting property.

STRUCTURALLY ALTERED: Any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls less than six feet (6') in height.

STUDIO OR EFFICIENCY: A dwelling consisting of not more than one habitable room together with kitchen or kitchenette and bath facilities.

SUBDIVISION: For zoning purposes as covered by this Chapter, either an act of subdividing or partitioning land, or an area or tract of land that has been subdivided or partitioned. (See Chapter 13)

TANGIBLE PERSONAL PROPERTY: Personal property which may be seen, weighed, measured, felt or touched or is in any manner perceptible to the senses.

UNIFIED CONTROL: Ownership of land by more than one party where each party having ownership interest is bound to each other party having ownership interest by recorded written agreement.

WAREHOUSE: A building used primarily for the storage of goods and materials.

YARD: A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky.

YARD, FRONT: A yard extending across the full width of the lot between the front lot line and the principal building, the depth of which shall be the least distance between the front lot line and the nearest portion of the principal building.

YARD, REAR: A yard extending across the full width of the lot between the rear-most portion of the principal building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the nearest portion of the principal building.

YARD, SIDE: A yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and the principal building. (Ord. 80-131; Ord. 80-161; Ord. 81-149; Ord. 82-47; Ord. 82-97; Ord. 82-115; Ord. 83-45; Ord. 83-187; Ord. 83-217; Ord. 83-229; Ord. 83-252; Ord. 84-28; Ord. 84-159; Ord. 84-326; Ord. 85-43; Ord. 85-272; Ord. 86-66; Ord. 86-67; Ord. 86-119; Ord. 86-124; Ord. 86-229)

CHAPTER 14 ZONING

ARTICLE 2 MASTER PLANS

SECTION:

14-2-101: Intent and Purpose
 14-2-102: Definitions
 14-2-103: Authority to Make Application
 14-2-104: Submittal Requirements
 14-2-105: Submittal Requirements for Amendments
 14-2-106: Criteria for Review and Approval
 14-2-107: Obsolete Master Plans

14-2-101: INTENT AND PURPOSE:

- A. Intent. The master planning process is designed to serve as a refinement of the Comprehensive Plan and, as such, is the first step in the land development process. The process is intended to provide a comprehensive means of addressing a wide range of issues in a specified geographic area. The use of a theme, or development concept, will provide a basis for relating to the Comprehensive Plan, reviewing future amendments and in determining conformance of zoning requests to the plan's intent.

The master plan constitutes a determination by the City Planning Commission and City Council in their legislative capacities of advisory guidelines to be used by the City Planning Commission and City Council in their review of applications for rezonings, plats, or other land development review as provided for in this Chapter and Chapter 15 of the City Code. Conformance to an approved master plan not found to be obsolete will constitute a community benefit as described in the Comprehensive Plan.

This Article recognizes the need for flexibility and that long term planning and consistency shall be balanced with the need to amend plans. The intent is to permit changes that conform to the approved theme. An approved master plan shall be used by the Planning Department as a guide to zoning. This process is the most generalized in the land development process and subsequent steps shall establish specific plans which are consistent with the adopted master plan.

- B. Objectives. Master plans are intended to achieve the following objectives through conformance to the criteria contained in Section 14-2-106 of this Article:

1. To serve as a refinement of the goals and policies of the Comprehensive Plan.
2. To assure the coordination of City capital improvements.
3. To serve as a guide for future land use and transportation patterns.
4. To aid the City in making annexation decisions.
5. To analyze the impact on public facilities and environmental quality.
6. To analyze the fiscal impact on the City.
7. To identify and protect significant natural features.
8. To assure coordinated implementation of adopted City plans.
9. To resolve issues of community wide interest. (Ord. 84-221)

14-2-102: DEFINITIONS:

- A. The purpose of definitions within this part is to provide consistency in land use and operational terms, to allow for comparisons between various master plans and to provide for a standard of measurement. These definitions represent the least degree of specificity and the applicant is encouraged to provide a greater level of detail and description. These definitions shall be considered as guidelines and minor variations from them are acceptable. These definitions shall apply only to master plans. This section is not intended to require each of these land uses for every master plan. These are the most commonly used definitions. Other land use types may be submitted when accompanied with an adequate definition. Various land use types may be combined to produce another land use.

- B. Land use and operational terms used in a master plan shall conform to the definitions shown below.

C. Land Use Definitions.

1. COMMERCIAL:

a. Community Commercial: A retail land use which is anchored by a major grocery store, junior department store or other similar major tenant; may include offices; and provides comparative shopping.

It generally contains at least seventy five thousand (75,000) square foot of gross floor area, is located on a site containing ten to thirty (10–30) acres and is at the intersection of major and/or minor arterials. The service area is at least a two (2) mile radius and serves several neighborhoods with a population exceeding twenty five thousand to thirty thousand (25,000–30,000).

b. Neighborhood Commercial: A retail land use intended to provide the sale of convenience goods and personal services and offices generally anchored by a drugstore, hardware store or grocery store, containing up to seventy five thousand (75,000) square foot of gross floor area, and located on a site containing up to ten (10) acres. The service area radius is one-half to two ($\frac{1}{2}$ to 2) miles and serves a neighborhood or neighborhoods with a minimum population of five thousand (5,000). The site is usually located adjacent to a neighborhood at the intersection of a minor arterial and/or a collector.

c. Regional Commercial: A retail land use intended to provide some of the functions of the other commercial centers plus the sale of general merchandise and provision of office space. This center is generally anchored by one or more major department stores, contains over four hundred thousand (400,000) square foot of gross floor area and is located on a site exceeding thirty (30) acres. The service area is a community or an area within a five (5) mile radius and a population of at least one hundred thousand (100,000). The site is usually located at the intersection of two (2) major arterials.

- C) 2. OFFICE: A land use with a structure or structures containing a room or group of rooms and providing space primarily for administrative purposes and professional services exclusive of manufacturing and research facilities. An office may be a separate building or buildings in an office park containing open space.

3. RESEARCH AND DEVELOPMENT: A unified development or separate parcels generally containing research, office and light manufacturing facilities. This park contains open space and low-rise buildings in a campus type setting. Supporting uses may include offices and post secondary educational facilities.

4. INDUSTRIAL: A planned development which is designed in a unified pattern and is intended to accommodate a variety of light and heavy industrial uses.

5. RESIDENTIAL DENSITY: The number of dwelling units per gross acre of land in a specified parcel. Densities shall be designated at a minimum and maximum range and may vary up to four (4). (example: 0-4; 5-8, etc.).

6. COMMON FACILITIES (MAY BE PUBLIC OR PRIVATE):

a. Activity Center: A planned environment incorporating complementary multiple uses with a strong live/work/play orientation and featuring a focal point of activity. Activity centers are also characterized by compatible land use relationships, housing, variety, self sufficiency, linear open space, pedestrian orientation and reduced automobile travel between residential, commercial, recreational and employment areas.

b. Community or Cultural Center: A unified development with the purpose of serving as the focus of cultural and civic activities for a master plan area. This center may include other types of land use but shall include one of the following: civic arena or auditorium, police or fire station, church(s), public park or open space, offices for any level of government, public library or museum, or community center.

C6) c. Community Park: A land use which is generally twenty five to one hundred (25 to 100) acres and intended to serve a large section of the City. Features included in a community park may include playgrounds, athletic fields, swimming pools, tennis courts, picnic areas, community recreation building and special features.

d. Neighborhood Park: Is generally within walking distance of the neighborhood being served. Neighborhood parks are a minimum of five (5) acres and are oriented to all age groups and a variety of uses. They are often combined with an elementary school for the sharing of playground facilities.

e. Major Streets: A right of way width greater than sixty feet (60') which provides for the rapid and relatively unimpeded movement of vehicular traffic between major land use centers in the City and is shown on the adopted major thoroughfare plan. Each major street shall be designated on the master plan as a freeway, an expressway, a major arterial or a minor arterial. The master plan may propose expansions of the major thoroughfare plan.

f. Open Space: A parcel or area of land which is unimproved, may be in public or private ownership and may contain significant natural features such as a flood plain, steep topography or significant rock outcroppings. It is intended to accommodate areas which warrant preservation but are not appropriate for inclusion in a park system.

g. Government Facilities: Including but not limited to all utilities, streets, parks, open space, trails, schools, police and fire stations, libraries, or other facilities owned by a governmental entity.

h. Regional Park: Serves the entire metropolitan area and should be at least two hundred (200) acres. Regional parks usually include a major feature that is unique to the region as well as other facilities found in other park types.

i. School: A land use intended to provide a location for primary or secondary public or private schools.

C6) j. Trail: A route intended to accommodate bicyclists, pedestrians and/or equestrians. It may be separated from or adjacent to a street and is shown on, or linked to, the trails master plan.

7. OPERATIONAL DEFINITIONS:

a. Phase: A portion of the master plan which is developed as part of a sequence. Phasing is used to time provision of public facilities. Phasing may be specified in a sequential order (1, 2, 3 etc...) or by time period (1985, 1986, etc...).

b. Parcel: A piece of land within the master plan which is specified for a single land use and is the basic unit of a master plan. A group of parcels may form a phase.

c. Pre-Application Conference: A conference between the applicant for a master plan approval and the City Planning Department. The conference is for the purpose of ensuring a complete submittal and early identification of issues. If deemed necessary, the Planning Department will include other City departments in the conference.

d. Theme: A broad development concept which is used to outline the means and objectives of the master plan and basis for review. (Ord. 84-221)

14-2-103: AUTHORITY TO MAKE APPLICATION:

A. A master plan may be submitted for approval by any of the following:

1. A landowner or group of landowners where such submittal shall further the purpose of this part.

2. The City of Colorado Springs for a redevelopment area or any other area where the Planning Commission has determined that a master plan is needed.

B. A master plan shall be submitted under the following circumstances:

- B) 1. A request for annexation.
2. A request for preliminary plat approval or change of zone where the City Planning Director finds that the purpose and intent of this Article will be furthered and that a master plan is needed to further the intent of this Chapter.
3. An area covered by a master plan which is determined by the Planning Director to be obsolete.
- C. The Planning Director may waive these submittal requirements set forth in subsection B upon receipt of a written request where the applicant can demonstrate that a master plan will not further the intent of this Article or Chapter. (Ord. 84-221)

14-2-104: SUBMITTAL REQUIREMENTS:

- A. A request for original approval of a master plan shall be accompanied by the following information:
1. General Written Information:
- a. Completed application.
- b. Master plan description.
- (1) Name.
- (2) Overall development theme and phasing themes, if applicable.
- (3) Relationship to the Comprehensive Plan.
- (4) Relationship to other adopted City plans.
- c. Phasing Plan (if applicable).
- (1) Total acreage, acreage by land use and time frame or sequential order of development.
- (2) Public facilities.
- (3) Park and school land dedication requirements.

- A1c) (4) Estimated population.
- (5) Relationship to sub-area plans, if applicable.
- d. Fiscal Impact Information: This shall be required where significant improvements or additions to public facilities, both on- and off-site, will be required by virtue of master plan approval. The fiscal impact analysis is needed to show the potential impact upon the City's adopted five (5) year capital improvement program and the City's ability to provide efficient Municipal services.
- e. Public Facilities Information:
- (1) Proposed locations and sections of major roads and trails.
- (2) Park and school dedication requirements and proposed dedication location and acreage. The dedication of neighborhood parks and schools shall relate to the proposed phasing plan and shall be based upon maximum residential density.
- (3) Location, size and classification of each public park and school site.
- (4) Location and size of each private open space parcel.
- (5) Method of trails crossing of barriers such as major roads and watercourses.
- (6) Existing and proposed water, wastewater, electric and natural gas capacity.
- (7) Master drainage plan.
- (8) Location and acreage of other public facilities such as police and fire stations and libraries.
- (9) Impacts on any of the above public facilities outside of the master plan area.
- f. Traffic Information: Impact on existing and proposed major road system, adjacent neighborhoods and transit system, based upon proposed land uses and maximum residential density and traffic generation projections.

A1) g. Environmental Information:

(1) Land suitability analysis. (in designated Hillside Areas, this shall comply with applicable requirements.) This analysis shall include identification of significant natural features, geological or soil conditions which may pose a threat to the public safety and general suitability for development.

(2) Impact on air quality standards.

(3) Impact on views of adjacent areas.

(4) Impact of noise on adjacent areas.

h. Special Agreements (if applicable): Description of special agreements which pertain to financing, maintenance, etc... which are not applicable to other submittal requirements.

2. Tabular Information: The following information shall be shown by parcel, phase and total area:

- a. Land use.
- b. Number of residential dwelling units.
- c. Estimated population.
- d. School land dedication acreage and fees.
- e. Parkland dedication acreage and fees.
- f. Other public and private open space.

3. Graphic Information:

- a. Vicinity map.
- b. Scale, bar scale and north area.
- c. Proposed land use by parcel. Residential parcels shall show gross density range.
- d. Adjacent zoning.
- e. Adjacent land use.
- f. Major streets and functional classification.

A3) g. Existing and proposed trails including on-street facilities.

h. Existing on-site adjacent transit routes.

i. Existing and proposed public and private parks and open space.

j. Other proposed public facilities.

k. Contours at five feet (5') intervals.

l. Phasing plan for land use and public facilities.

m. Significant natural features including one hundred (100) and five hundred (500) year flood plains.

n. Overlay zone district boundaries.

o. Major utility lines and easements.

p. Upon approval of City Council, submittal of a reproducible copy and a copy reduced to eight and one-half inches by eleven inches (8½" x 11") of the master plan.

4. The Planning Department shall require a pre-application conference prior to submittal of a master plan or an amendment to an approved master plan.

5. Some of the above information may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Planning Director may waive any submittal requirement.

The criteria for such waiver shall be a finding that the review process does not require this information.

6. The City Planning Commission or City Council may request other information in addition to that required in this Section.

7. The submittal requirements set forth in this Section shall not prohibit the City Planning Commission or City Council at their election from considering a submittal request not meeting all the requirements set forth in this Section. (Ord. 84-221)

14-2-105: SUBMITTAL REQUIREMENTS FOR AMENDMENTS:

- A. A request for an amendment to an approved master plan shall be accompanied by the following information:
1. A map of the entire master plan area which clearly defines that portion which is proposed for amendment.
 2. Completed application.
 3. Written information as required by Section 14-2-104A1 of this Article describing any changes in impact which would result from the amendment.
 4. Tabular information as required in Section 14-2-104A2 of this Article showing the master plan which would result from the amendment.
 5. Graphic information as required in Section 14-2-104A3 of this Article showing the master plan would result from the amendment.
 6. The City Planning Commission or City Council may request other information in addition to that required in this Section. (Ord. 84-221)

14-2-106: CRITERIA FOR REVIEW AND APPROVAL:

- A. Master plans shall be reviewed for substantial conformance to the applicable criteria contained in this Section. Applicable criteria shall mean such criteria contained in this Section as the City Planning Commission or City Council determines are necessary to properly review and approve the master plan. This shall be construed to constitute a community benefit.
1. Comprehensive Plan:
 - a. Substantial conformance to goals, policies and recommendations.
 - b. Substantial conformance to other adopted City plans.
 2. Land Use Relationships:

- A2) a. Represents logical land use locations and relationships.

b. Results in compatible relationships with existing and proposed adjacent land uses.

c. Promotes the stated theme.

d. Creates or expands an existing activity center where proposed.

e. Justifies commercial land uses by virtue of service areas including the master plan area and other areas.

f. Land use type and location reflect the findings of the environmental analysis.

g. Land uses are buffered, where needed, by open space and/or transitions in land use intensity.

h. Conforms to the definitions contained in Section 14-2-102 of this Article.

3. Public Facilities:

a. Mitigation of off-site impacts on public facilities created by the adoption of the proposed master plan.

b. Adequate parks, trails and open space to serve the estimated population.

c. Adequate school sites to serve the estimated population.

d. Adequate public facilities to serve the estimated population.

e. Proposed public facilities are a logical extension of the adopted capital improvement program.

4. Transportation:

a. Creation of a logical hierarchy of major roads.

b. Minimizes through traffic infiltration into adjacent neighborhoods.

c. Minimizes uncontrolled or at-grade street crossings by trails.

- A4) d. Utilizes existing transit routes or represents logical extensions of these routes.

e. Anticipated traffic generation does not exceed capacity of existing or proposed major roads.

5. Environment:

a. Assures the preservation of significant natural features.

b. Assures the preservation of significant view corridors.

c. Utilizes natural drainage.

d. Demonstrates an acceptable air quality impact.

e. Avoids identified hazard areas.

f. Minimizes encroachment into one hundred (100) year flood plains.

g. Minimizes noise impacts on existing and proposed adjacent areas.

h. Incorporates significant natural features, view corridors and flood plains into parks and open space areas.

6. Theme:

a. The stated theme is clearly demonstrated to be implemented through the proposed master plan.

b. Unless a new master plan is submitted, any proposed amendment shall implement the approved theme.

7. Fiscal:

a. The cost of off-site impacts on public facilities is not borne solely by the general community within a reasonable period of time.

b. The fiscal impact analysis demonstrates no adverse impact upon the general community within a reasonable period of time.

- A7) c. Special agreements for public improvements and maintenance are shown to be workable.

d. Off-site impacts generated by adoption of the master plan shall not exceed the capacity of existing public facilities.

e. In those situations where off-site impacts are shown to exceed the capacity of existing public facilities, the applicant must demonstrate some means of increasing the capacity of said public facilities. This may include, but not be limited to, planned expansions to the facility, amendments to the master plan, phasing of the master plan and/or special agreements related to construction and/or maintenance.

- B. Requests for amendments to approved master plans shall be reviewed for substantial conformance to the criteria contained in this Section.

1. Requests for amendments shall be reviewed by the City Planning Commission and City Council and shall be subject to their approval.

2. The Planning Director may approve minor amendments to an approved master plan without review and approval by the City Planning Commission and City Council. Minor amendments shall mean minor adjustments to road alignments, parcels boundaries and deletion of a land use within a parcel. (Ord. 84-221)

14-2-107: OBSOLETE MASTER PLANS:

- A. A master plan may be considered obsolete if the Planning Commission or City Council finds that any of the following conditions exist:

1. Surrounding conditions including, but not limited to land use, zoning, and public facilities, have changed significantly since the master plan was last approved or amended.

2. The original theme has not been followed.

3. The master plan has been inactive (no building permits have been issued) for the past five (5) years.

- A) 4. The master plan is in substantial conflict with the Comprehensive Plan and/or other adopted City plans.

5. Information upon which the master plan was based is insufficient for adequate review.
- B. In the event that a master plan is found to be obsolete, a new master plan shall be approved prior to further actions which rely upon the master plan for justification.
- C. The Planning Department may notify property owners in the master plan area that it may require updating. (Ord. 84-221)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 1 PUD - PLANNED UNIT DEVELOPMENT

SECTION:

- 14-3-101: Description and Purpose
- 14-3-102: Where Established
- 14-3-103: Modification of Subdivision Regulations
- 14-3-104: Principal Permitted Uses
- 14-3-105: Conditional Uses
- 14-3-106: Procedure
- 14-3-107: Submittal Requirements and Criteria for Review
- 14-3-108: Small Lot PUD Development

- B) 6. To encourage a high quality of design in new development.
- 7. To encourage the conservation of energy.
- 8. To promote affordable housing by means of cost effective site planning.

Requests for a Planned Unit Development shall be reviewed for conformance with this purpose. (Ord. 82-83; Ord. 85-43)

14-3-101: DESCRIPTION AND PURPOSE:

- A. Description. The Planned Unit Development (PUD) district is intended to provide the means through which land may be developed through an overall unified approach rather than the traditional lot by lot approach. The district encourages clustering of units by means of flexibility in design in order to create a better living environment, preserve the unique features of the site, and provide services in a more economic manner. The PUD allows for a variety of types of residential development and encourages appropriate mixed use developments.
- B. Purpose. The purpose of the Planned Unit Development (PUD) district is:
 - 1. To encourage flexibility, innovation of design and variety of development types in order to promote the most suitable use of a site.
 - 2. To facilitate efficient provision of streets, utilities and municipal services.
 - 3. To achieve a compatible land use relationship with the surrounding area.
 - 4. To preserve the unique, natural, scenic, historical and cultural features of a site.
 - 5. To preserve and develop usable open space in new development.

14-3-102: **WHERE ESTABLISHED:** A planned unit development zone may be established upon any tract of land held under single ownership or under unified control, provided a land use proposal is submitted for the tract in compliance with the provisions of this Part. (Ord. 82-83)

14-3-103: **MODIFICATION OF SUBDIVISION REGULATIONS:** When the situation so warrants, the following requirements of the subdivision regulations may be waived or modified by the Planning Commission or City Council based on the sketch plan or the final development plan: width and right of way of streets, access and alleyways, location of utility easements or lines, requirements for or placement of curb, gutter or sidewalks, requirement for street lights and storm drainage treatment. The Planning Commission or City Council may find that such requirements are not necessary for the general health, safety and welfare of the citizens. If a waiver based on a sketch or development plan has been approved, approval of the same waiver is not required at time of platting. A waiver may be approved if the modifications would result in at least one of the following:

- A. Preservation of natural features.
- B. Provision of a more livable environment.
- C. Provision of a more efficient pedestrian system.
- D. Provision of additional open space.

- E. Provision of adequate drainage facilities. (Ord. 82-83)

14-3-104: PRINCIPAL PERMITTED USES:

- A. Dwelling units in detached, semi-detached, attached or multi-family structures or any combination thereof.
- B. Nonresidential uses of a cultural, recreational and commercial character to the extent that they are designed to serve primarily the residents of the planned unit development and are compatibly and harmoniously incorporated into the unitary design of the PUD.
- C. Religious institutions.
- D. Any use considered by the Planning Director as accessory to the principal permitted uses.
- E. Open space.
- F. Small personal care boarding home.
- G. Intermediate personal care boarding home.
- H. Retirement home.
- I. Rooming house. (Ord. 82-83; Ord. 86-119)

14-3-105: CONDITIONAL USES:

- A. Human service establishments.
- B. Day Care Center
 - 1. Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.
 - 2. Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.
- C. Nursing home. (Ord. 82-83; Ord. 86-119)

14-3-106: PROCEDURE:

- A. Preapplication Conference. The applicant is encouraged to meet with the Planning Department prior to submittal of the application for zoning.
- B. Application for Zoning. The applicant for a PUD district shall make written application to the Planning Commission.
- C. Sketch Plan. The application shall be accompanied by a sketch plan. The maximum density, type of dwelling and maximum height shall be established at time of zoning, based on the sketch plan and the criteria listed below.
- D. Density. Maximum permissible densities will be determined as part of the sketch plan approval for a PUD. Densities will be determined in accordance with the following:
 - 1. Master Planned Areas. The density established on the approved Master Plan shall be considered the maximum allowed density unless the Planning Commission based on the sketch plan or new evidence finds that such density is not feasible.
 - 2. Other Areas. For all PUD's where there is not a currently approved Master Plan, maximum allowed density will be established in accordance with the following criteria:
 - a. The character of the surrounding neighborhood and land usage (actual or planned) and the impact of the proposed PUD on adjacent areas.
 - b. The ability of the existing off-site transportation, utility, drainage, open space and other amenities (together with improvements proposed) to handle the proposed PUD density.
 - c. The extent to which the proposed PUD contains unique or innovative features or utilizes and incorporates special site conditions into its design in order to mitigate the impact of the proposed density on adjacent areas.
 - d. Amount of usable on-site open space.
- E. Submittal of Sketch Plan: The sketch plan shall be submitted with a request for zoning. The Planning Commission shall review the zone request and request for density based on the sketch plan.
- F. Amendments to the Approved Sketch Plan: Minor changes in siting of buildings, interior access or arrangement of parking or open space may be approved by the Planning

- F) Director. Major changes as described below require an amendment to the sketch plan which is reviewed by the Planning Commission:
- Increased density.
 - Relocation of points of access.
 - Decreased perimeter setbacks.
 - Major changes in building location, arrangement of parking, or open space.
 - Change in unit type (townhouse to apartments, etc.)
 - Projects over 20 acres:
 - Over 10% reduction in area of open space.
 - Over 10% increase in lot coverage.
 - Projects under 20 acres:
 - Over 5% reduction in area of open space.
 - Over 5% increase in lot coverage.
- G. Submittal of the Final Development Plan. The final development plan must substantially conform to the approved sketch plan. A final development plan which is in substantial conformance with the approved sketch plan and which conforms to criteria contained in this Section may be approved by the Planning Department. The plan may be referred to the Planning Commission by the Planning Department or the decision of the Planning Department may be appealed by the applicant or other affected party.
- H. Subdivision. No subdivision of the PUD district shall be approved nor any building permits issued until a final development plan is approved for an entire district, except for approved phased projects. Platting of separate phases may be approved if there is an approved sketch plan over the entire district and an approved final development plan on the phase to be platted. This does not preclude the platting of the entire district as one lot prior to the approval of a final development plan. The final development plan may be used in place of the preliminary plat requirements.
- I. Amendments to the Approved Final Development Plan. Minor changes in siting of buildings, interior access or arrangement of parking or open space may be approved by the Planning Director. Major changes as described below require an amendment to the Final Development Plan which is reviewed by the Planning Commission:
- Increased density.
 - Relocation of points of access.
 - Decreased perimeter setbacks.
 - Major changes in building location, arrangement of parking, or open space.
 - Change in unit type (townhouse to apartment type, etc.)
 - Substantial changes in the landscape plan.
 - Projects over 20 acres:
 - Over 10% reduction in area of open space.
 - Over 10% increase in lot coverage.
 - Projects under 20 acres:
 - Over 5% reduction in area of open space.
 - Over 5% increase in lot coverage.
- J. Amendments to Sketch and Development Plans: Determination of whether an amendment to the approved sketch plan or final development plan is necessary shall be made by the Planning Director. If changes are slightly in excess of the criteria above, but would result in minimal impact on the development or its surroundings, the requirement for an amendment may be waived.
- K. Staff Review: Staff shall review the final development plan and inform the applicant of its findings within fifteen working days of a complete submittal.
- L. Control of Common Amenities in Phased Projects: If a phased project contemplates a disproportionate share of the open space, recreational facilities or other common amenities ("Common Facilities") to be provided in later phases, some form of assurance is required so that if the later phases are not developed, sufficient common facilities will be provided for the phases actually developed.
- Suitable assurances may be in the form of a letter of credit, escrow, or recorded agreements by the mortgage holder or owner guaranteeing the development of the open space.

14-3-107: SUBMITTAL REQUIREMENTS AND CRITERIA FOR REVIEW:

A. Sketch Plan Requirements:

1. Written Information:

a. Existing ownership.

b. Type of unit, approximate size of unit, number of stories, approximate maximum height in feet, land uses if not residential.

c. Approximate number of bedrooms, if known, (to determine population and parking requirements.)

d. Number of units, gross and net density.

e. Type of resident expected (elderly, families, single).

f. Proposed ownership configuration.

g. Description of design parameters (for example: solar orientation, type of buyer, natural features, surrounding area, etc.)

h. Amount and function of proposed open space, whether public or private, relationship to multi-use trails plan.

2. Plan:

a. Appropriate scale.

b. Boundaries of subject parcel, legal description, total acreage.

c. Vicinity map.

d. Existing streets, ROW widths, pavement widths.

e. Location and size of existing utility lines and easements.

f. Existing natural features such as mature vegetation, rock outcroppings, slopes, drainageways and provision for protection

A,2) and/or incorporation into the design of the project.

g. Land forms and topographic character of the land. Two foot (2') contours are required if slopes are over ten percent (10%). Identification of buildable areas.

h. Building envelopes, percentage of building coverage, amount and location of open space, percentage of open space, location and type of recreational facilities.

i. Circulation and access plans including general description of provisions for pedestrian circulation.

j. General arrangement of garages, carports and parking, the number of spaces, and number of cars to be stored in carports and garages. Coverage of parcel by parking.

k. Provisions to be used for ensuring compatibility of the project with the surrounding area.

l. Proposed development schedule and general timing of phases.

m. General drainage scheme and description of method of providing for drainage (channelization, retention, detention).

n. General grading, erosion control and reclamation scheme (in designated hillside areas or where otherwise appropriate).

3. Phased Plans. If the proposed development is to be phased, exact number of units, exact building coverage, building envelopes, information on garages, carports and parking, and the general grading scheme need not be shown for later phases when this information cannot be reasonably provided with the sketch plan, but the applicant must then submit typicals which are sufficient to define the development intent of these later phases. Final plans for such later phases must be in conformity with both the sketch plan and any other typicals.

- B. Criteria for Review of Sketch Plan. A sketch plan which substantially meets the objectives of the review criteria listed below and in Article 5 may be approved by the Planning Commission. The Planning Department may determine that certain criteria may be irrelevant based on the characteristics of the individual project.

1. Compatibility of Project to Surrounding Area: Is the density appropriate? Does the design reflect an effort by the developer to blend the project harmoniously into the surrounding area by means of appropriate density, landscaped buffering, building types, bulk and placement access and other means?

2. Does the proposed density relate to the topography and other natural features of the site? Does the design minimize destruction of desirable natural features and utilize these elements in the design of the project?

3. Is a continuity of design reflected in the site planning? Is there a variety of unit types and placement in large projects?

4. The provision of adequate, functional common open space shall be required to provide adequate light, air and privacy, to provide relief from density, to buffer adjacent properties, to provide active and passive recreation opportunities to preserve the unique features of the site.

Are units or lots clustered around open space with convenient access to that space to all units? Does each unit have adequate private outdoor space when appropriate? Is linear open space wide enough to function as such? Minimum widths are usually at least thirty feet (30') between one story units and forty feet (40') between two (2) story units. (This requirement does not relate to building separation when not counted as open space for purposes of plan review or park credits.)

5. Does the development provide appropriate recreational facilities in terms of the type of resident expected in the project?

6. Are structures adequately separated and arranged to provide visual and aural privacy, functional open space, visual relief from density and to protect solar access?

- B) 7. Is adequate and convenient parking provided which is separated and screened from living areas? Does the amount of parking reflect the type of unit, family size, age and income level of residents? (Waivers based on these factors may be granted upon consideration of the sketch plan.)

8. Are vehicular facilities designed to maximize safety and convenience for the residents and minimize the intrusion of adverse sights and sounds? Do the facilities discourage large volumes of traffic within the project and lessen the impact generated by the project upon public streets and surrounding areas? Are mid or high density projects convenient to transit?

9. Are the buildings and units oriented to take advantage of views, provide for privacy for residents and conserve energy?

10. Is provision made for pedestrian travel, particularly travel to common open space and/or public parks? Has the multi-use trails plan been considered?

- C. Final Development Plan.

1. Final Development Plan Requirements.

a. Boundaries and size of parcel, legal description.

b. Vicinity map.

c. Appropriate scale.

d. Existing ownership.

e. Proposed ownership configuration.

f. Design parameters (if not shown on sketch plan).

g. All major improvements of surrounding properties within three hundred feet (300') of the proposed PUD.

h. Gross and net density, number of units, size of units, number of bedrooms, height of buildings.

i. Area to be conveyed, dedicated or reserved for parks or trails, schools and other public or semi-public purpose sites.

C,1) j. Area to be used as common open space and recreational facilities.

k. Existing and proposed entrance and exit drives, traffic islands and other devices.

l. Lighting standards, location and height.

m. Location and width of ROW and pavement of proposed streets, public and private.

n. Public facilities plan - placement and size of all public facilities including curb, gutter, sidewalks, pavement, utility lines and storm drainage facilities and easements.

o. The location, number and detail plans of proposed off-street parking and loading facilities. The percent of the lot covered by pavement.

p. Detailed landscaping plan (See Landscape Plan Requirements in Section 14-10-104).

q. Building size and location, including details of private outdoor space. Percent of coverage of lot by building.

r. Pedestrian facilities including types of surfacing.

s. Location, height and material of fencing or walls.

t. Existing and proposed contours and method of erosion control and reclamation when applicable. In areas of steep slope or areas requiring substantial cut and fill, a grading plan may be required.

u. Details of natural features such as mature trees, streams, rock outcroppings and the means of incorporation into the design of the project.

v. Single family developments: Setbacks in single family developments may be established by showing the building envelope on the lots. In hillside areas the location of building envelopes must be based on a detailed

C,1) site plan showing how disturbance of terrain and destruction of natural features has been minimized.

The landscaping plan may be general in nature if the Planning Director determines that the development so warrants.

2. Criteria for Review of Final Development Plan. In addition to the purposes of this Section, the review criteria for the concept plan and the criteria in Article 5, the following criteria shall be used in reviewing the development plan:

a. Design Compatibility With the Surrounding Area. Does the circulation plan minimize traffic impact on the adjacent neighborhood? Do the design elements reduce the impact of the project's density? Is placement of buildings compatible with the surrounding area? Is adequate buffering from adjacent properties provided by means of setbacks, landscaping, decorative walls or grade separation?

b. Traffic Circulation. Is the circulation system designed to be safe and functional? Does the design of parking and access result in a minimum of area devoted to asphalt? Are landscaping and grade separation and other techniques used to provide visual relief from access areas, service areas and parking? Are units protected from arterial traffic by the provision of adequate setbacks, grade separation, walls, landscaping and building orientation?

c. Privacy. Is privacy provided where appropriate by means of staggered setbacks, courtyards, private patios, grade separation, landscaping, window placement or other means?

d. Pedestrian Circulation. Are pedestrian facilities provided, particularly those giving access to open space and recreation facilities? Are those facilities separated from vehicular traffic and adequately landscaped?

e. Landscaping. Does the landscape design contribute to the livability of the project,

C,2,e)offer relief from density, aid in energy conservation and provide for privacy? Are a variety of species provided and selected with regard to color, shape, massing and screening? Are large expanses of gravel, bark or pavement avoided?

The use of native vegetation or drought-resistant species including grasses is encouraged. Assistance from the Soils Conservation Service, the City Forester and the Colorado State University Extension Service is recommended for selection of plant materials.

f. Variety. Is a mix of unit types and/or exterior elevations provided in larger projects?

g. Open Space. The provision of adequate, functional common open space shall be required to provide adequate light, air and privacy, to buffer adjacent properties, to provide active and passive recreation opportunities and to preserve the unique features of the site. The area provided for vehicular access, parking and storage shall not be counted as open space.

Common open space may be used to reduce the park dedication requirements if the open space is functional and provides enough area or recreational facilities to relieve pressure on neighborhood parks. Credit may also be given if the provision of open space results in the preservation of significant natural features.

All units should include well-designed private outdoor living space featuring adequate light, air and privacy where appropriate.

Provision of a homeowner's association where appropriate for purpose of maintaining common area is required. Agreements or covenants shall be provided which reflect suitable guarantees for such maintenance.

Natural features such as trees, drainage channels, slopes, rock outcroppings, etc. are to be incorporated into the design of the open space.

C,2) Recreational facilities should reflect the needs of the type of resident and proximity to public facilities.

D. Interpretation. This Part is intended to be flexible to allow for innovative, efficient and compatible land uses and consequently, many of the requirements contained in it are intended to provide general guidance rather than specific requirements. Interpretations of this Part shall be reasonable, in light of the purposes of the PUD, and any interpretations which may significantly increase the cost of a proposed project must be clearly warranted by the requirements and intent of the Part. (Ord. 82-83; Ord. 86-39)

14-3-108: SMALL LOT PUD DEVELOPMENT:

A. Definition. For the purpose of this Part, small lot PUD development shall be defined to mean any residential project of single-family dwellings or attached dwellings where each unit is located on an individual lot with sizes and setbacks that are based on the PUD development plan.

B. Purpose. It is the purpose of this Section to provide for small lot PUD development allowing maximum design flexibility while preserving compatibility with existing and proposed PUD development through development plan review.

C. Criteria. Establishment of a small lot PUD development shall be reviewed based on the following criteria:

1. Does the proposed development add to the available mixture of housing types in the neighborhood in which it will be located?

2. Is the size of the proposed development compatible with its location?

3. Is the proposed development compatible with surrounding land uses, both existing and proposed?

4. Are school and park sites, existing or planned, available within the neighborhood to serve this proposed development? (Ord. 82-83)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 2 A - AGRICULTURAL

SECTION:

14-3-201: Description and Purpose
 14-3-202: Minimum Requirements
 14-3-203: Principal Permitted Uses
 14-3-204: Conditional Uses

14-3-201: DESCRIPTION AND PURPOSE: The A zone is intended to provide for large lot residential development and agricultural purposes that, are in most cases, on the periphery of the City limits but may become an urban area in the future. The agricultural activities conducted in the A zone should not be detrimental to adjacent urban land uses. The types, size and intensity of uses permitted in this district shall encourage and protect agricultural uses until urban development occurs. (Ord. 3905; Ord. 80-131; Ord. 86-229; 1968 Code § 14-10)

14-3-202: MINIMUM REQUIREMENTS:

- A. Minimum lot area. Five (5) acres.
- B. Maximum percentage of lot to be used. Principal and accessory buildings - fifteen percent (15%).
- C. Maximum height of principal building. Thirty feet (30').
- D. Minimum frontage of lot. Two hundred feet (200').
- E. Minimum Yard dimensions.
 Front. Twenty five feet (25').
 Side Yard, least width. Ten feet (10').
 Rear Yard. Thirty five feet (35'). (Ord. 3905; Ord. 80-131; Ord. 86-229; 1968 Code § 14-10)

14-3-203: PRINCIPAL PERMITTED USES:

- 1. One-family dwellings.

- 2. Small personal care boarding home.
- 3. Crop cultivation.
- 4. Raising livestock and/or poultry.
- 5. Membership clubs.
- 6. Public and private outdoor recreational facilities such as public and private parks, forest preserves, recreational lakes, golf courses and other similar open-type recreational facilities.
- 7. Commercial and private stables, riding academies, and corrals for hooved animals. All buildings and corrals shall not be constructed closer than fifty five feet (55') from any property line.
- 8. Greenhouse and nursery, (sales limited to products grown on site).
- 9. Kennel. All buildings and runs shall not be constructed closer than fifty five feet (55') from any property line.
- 10. Public schools.
- 11. Religious institutions. (Ord. 3905; Ord. 80-131; Ord. 86-119; Ord. 86-229)

14-3-204: CONDITIONAL USES:

- 1. Cemeteries
- 2. Commercial greenhouse and nursery.
- 3. Day care center
 - a. Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor square space shall be situated in any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

b. Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.

4. Human service establishment.

5. Open pit, surface, or underground mining operations in conformance with regulations listed in Part 30 Mining Operations, Article 3 (Zone Districts) of this Chapter.

6. Race track. (Ord. 3905; Ord. 75-161; Ord. 80-131; Ord. 86-119; Ord. 86-229; 1968 Code § 14-10)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 3 R - ESTATE RESIDENTIAL

SECTION:

14-3-301: Description and Purpose
 14-3-302: Minimum Requirements
 14-3-303: Principal Permitted Uses
 14-3-304: Conditional Uses

14-3-301: DESCRIPTION AND PURPOSE: The R Estate Residential zone is designed for single-family dwellings, on lots exceeding twenty thousand (20,000) square feet per dwelling unit. (Ord. 74-117; Ord. 80-131; 1968 Code § 14-11)

14-3-302: MINIMUM REQUIREMENTS:

- A. Minimum lot area per dwelling unit. Twenty thousand (20,000) square feet.
- B. Maximum percentage of lot to be used. Principal and accessory building - twenty percent (20%)
- C. Maximum height of principal building. Thirty feet (30')
- D. Minimum width of lot at building setback line (front and rear yards). One hundred feet (100').
- E. Minimum yard dimensions.

Front Yard. Twenty five feet (25').

Side Yard, least width. Ten feet (10').

Sum of the least widths of both side yards. Twenty feet (20').

Rear Yard. Thirty five feet (35'). (Ord. 74-117; Ord. 80-131; 1968 Code § 14-11)

14-3-303: PRINCIPAL PERMITTED USES:

- 1. One-family dwellings.
- 2. Small personal care boarding home. (Ord. 74-117; Ord. 80-131; Ord. 86-119; 1968 Code § 14-11)

14-3-304: CONDITIONAL USES:

- 1. Cemeteries.
- 2. Commercial greenhouses and nurseries.
- 3. Libraries, museums and art galleries not operated for profit.
- 4. Membership clubs.
- 5. Public and nonpublic schools.
- 6. Religious institutions.

(a) Religious institutions with principal auditorium capacity of not more than three hundred (300) seats shall have a minimum lot area of two and one-half (2.5) acres. Religious institutions with principal auditorium capacity of three hundred and one (301) seats or greater shall have a minimum lot area of four (4) acres).

(b) No principal or accessory building shall be located less than fifty feet (50') from the right-of-way line of any public way. No off-street parking or maneuvering area shall be located less than twenty five feet (25') from the right-of-way line of any public way.

- 7. Human service establishments.

- 8. Day care center:

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.

- 9. Nursing home. (Ord. 74-117; Ord. 80-131; Ord. 86-39; Ord. 86-119; Ord. 86-124; Ord. 86-229; 1968 Code § 14-11)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 4 R-1 9000 - SINGLE FAMILY RESIDENTIAL

SECTION:

14-3-401: Description and Purpose
 14-3-402: Minimum Requirements
 14-3-403: Principal Permitted Uses
 14-3-404: Conditional Uses

14-3-401: DESCRIPTION AND PURPOSE: The purpose of this zone is to establish medium sized lots for single-family residential use. (Ord. 74-117; Ord. 80-131; 1968 Code § 14-12)

14-3-402: MINIMUM REQUIREMENTS:

- A. Minimum lot area. Nine thousand (9,000) square feet.
- B. Maximum percentage of lot to be used. Principal and accessory building - twenty five percent (25%).
- C. Maximum height of principal building. Thirty feet (30').
- D. Minimum width of lot at building setback line (Front and rear yards): seventy five feet (75').
- E. Minimum yard dimensions.
 Front Yard. Twenty five feet (25').
 Side Yard, least width. Ten feet (10').
 Rear Yard. Thirty feet (30'). (Ord. 74-117; Ord. 80-131; Ord. 85-43; 1968 Code § 14-12)

14-3-403: PRINCIPAL PERMITTED USES:

- 1. One-family dwellings.
- 2. Small personal care boarding home. (Ord. 74-117; Ord. 80-131; Ord. 86-119; 1968 Code § 14-12)

14-3-404: CONDITIONAL USES:

- 1. Public and nonpublic schools.
- 2. Religious institutions.

(a) Religious institutions with principal auditorium capacity of not more than three hundred (300) seats shall have a minimum lot area of two and one-half (2.5) acres. Religious institutions with principal auditorium capacity of three hundred and one (301) seats or greater shall have a minimum lot area of four (4) acres.

(b) No principal or accessory building shall be located less than fifty feet (50') from the right-of-way line of any public way. No off-street parking or maneuvering area shall be located less than twenty five feet (25') from the right-of-way line of any public way.

- 3. Human service establishments.
- 4. Day care center.

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway. (Ord. 74-117; Ord. 80-131; Ord. 86-39; Ord. 86-119; Ord. 86-124; Ord. 86-229; 1968 Code § 14-12)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 5 R-1 6000 - SINGLE FAMILY RESIDENTIAL

SECTION:

14-3-501: Description and Purpose
 14-3-502: Minimum Requirements
 14-3-503: Principal Permitted Uses
 14-3-504: Conditional Uses

14-3-501: DESCRIPTION AND PURPOSE: The purpose of this zone is to establish lots primarily for single-family residential use. (Ord. 74-117; Ord. 80-131; 1968 Code § 14-13)

14-3-502: MINIMUM REQUIREMENTS:

- A. Minimum lot area. Six thousand (6,000) square feet.
- B. Maximum percentage of lot to be used. Principal and accessory building - thirty percent (30%).
- C. Maximum height of principal building. Thirty feet (30').
- D. Minimum width of lot at building setback line (front and rear yard). Fifty feet (50').
- E. Minimum yard dimensions.
 Front Yard. Twenty five feet (25').
 Side Yards. Five feet (5').
 Rear Yard. Twenty five feet (25'). (Ord. 74-117; Ord. 80-131; 1968 Code § 14-13)

14-3-503: PRINCIPAL PERMITTED USES:

- 1. One-family dwellings.
- 2. Small personal care boarding home. (Ord. 74-117; Ord. 80-131; Ord. 86-119; 1968 Code § 14-13)

14-3-504: CONDITIONAL USES:

- 1. Public and nonpublic schools.
- 2. Religious institutions.

(a) Religious institutions with principal auditorium capacity of not more than three hundred (300) seats shall have a minimum lot area of two and one-half (2.5) acres. Religious institutions with principal auditorium capacity of three hundred and one (301) seats or greater shall have a minimum lot area of four (4) acres.

(b) No principal or accessory building shall be located less than fifty feet (50') from the right-of-way line of any public way. No off-street parking or maneuvering area shall be located less than twenty five feet (25') from the right-of-way line of any public way.

- 3. Human service establishments.

- 4. Day care center.

(a) Day care center shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway. (Ord. 74-117; Ord. 80-131; Ord. 86-39; Ord. 86-119; Ord. 86-124; Ord. 86-229; 1968 Code § 14-3)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 6 R-2 - TWO-FAMILY RESIDENTIAL

SECTION:

14-3-601: Description and Purpose
 14-3-602: Minimum Requirements
 14-3-603: Principal Permitted Uses
 14-3-604: Conditional Uses

14-3-601: **DESCRIPTION AND PURPOSE:** The purpose of this zone is to establish lots primarily for one or two-family residential use. (Ord. 74-117; Ord. 80-131; 1968 Code § 14-14)

14-3-602: MINIMUM REQUIREMENTS:

A. Minimum lot area.

One-family. Five thousand (5,000) square feet.

Two-family. Seven thousand (7,000) square feet.

B. Minimum width of lot at building setback line. (Front and rear yards). Fifty feet (50').

C. Maximum height of principal building. Thirty feet (30').

D. Minimum yard dimensions.

Front Yard. Twenty five feet (25').

Side Yard. Five feet (5').

Rear Yard. Twenty five feet (25').

E. Maximum percentage of lot to be used, principal and accessory buildings. Thirty percent (30%) (Ord. 74-117; Ord. 80-131; 1968 Code § 14-14)

14-3-603: PRINCIPAL PERMITTED USES:

1. One-family dwellings.

2. Two-family dwellings.

3. Small personal care boarding home.

4. Intermediate personal care boarding home. (Ord. 74-117; Ord. 80-131; Ord. 86-119; 1968 Code § 14-14)

14-3-604: CONDITIONAL USES:

1. Public and nonpublic schools.

2. Religious institutions.

(a) Religious institutions with principal auditorium capacity of not more than three hundred (300) seats shall have a minimum lot area of two and one-half (2.5) acres. Religious institutions with principal auditorium capacity of three hundred and one (301) seats or greater shall have a minimum lot area of four (4) acres.

(b) No principal or accessory building shall be located less than fifty feet (50') from the right-of-way line of any public way. No off-street parking or maneuvering area shall be located less than twenty five feet (25') from the right-of-way line of any public way.

(c) On-site lots and other areas subject to vehicular traffic shall be adequately screened from adjoining residential properties by a fence, minimum height of three feet (3'), constructed along the lot line of suitable material, or closely planted evergreens or hedges. Fences constructed or trees planted under this requirement shall be maintained during the duration of the religious institution. This requirement shall be superseded, where applicable, by the requirements of Section 14-15-111.

3. Human service establishments.

4. Day care center:

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and

appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway. (Ord. 74-117; Ord. 80-131; Ord. 86-119; Ord. 86-124; Ord. 86-229; 1968 Code § 14-14)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 7 R-4 - EIGHT-FAMILY RESIDENTIAL

SECTION:

14-3-701: Description and Purpose
 14-3-702: Minimum Requirements
 14-3-703: Principal Permitted Uses
 14-3-704: Conditional Uses

E) Side Yard. Four feet (4').

Sum of both side yards. Ten feet (10')

Rear Yard. Twenty five feet (25'). (Ord. 80-131;
 Ord. 81-102; 1968 Code § 14-15)

14-3-701: **DESCRIPTION AND PURPOSE:** The R-4 zone is intended to provide a zone district for not more than eight (8) dwelling units per lot. (Ord. 80-131; 1968 Code § 14-15)

14-3-703: **PRINCIPAL PERMITTED USES:**

1. One or two-family dwellings.
2. Multi-family dwellings having accommodations for not more than eight (8) families.
3. Day care center.

14-3-702: **MINIMUM REQUIREMENTS:**

A. Minimum area of lot per dwelling unit.

One-family. Five thousand (5,000) square feet.

Two-family. Three thousand five hundred (3,500) square feet.

Multi-family dwellings.

One story. Two thousand five hundred (2,500) square feet per dwelling unit.

Two story. Two thousand (2,000) square feet per dwelling unit.

Three story. One thousand five hundred (1,500) square feet per dwelling unit.

B. Maximum percentage of lot to be used. Principal and accessory buildings - thirty five percent (35%).

C. Maximum height of principal building. Forty feet (40').

D. Minimum width of lot at building setback line (front and rear yards). Fifty feet (50').

E. Minimum yard dimensions.

Front Yard. Twenty feet (20').

(a) Day care center shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.

4. Fraternity or sorority houses.

5. Nursing homes for the aged and infirm.

6. Religious institutions.

(a) Religious institutions with principal auditorium capacity of not more than three hundred (300) seats shall have a minimum lot area of two and one-half (2.5) acres. Religious institutions with principal auditorium capacity of three hundred and one (301) seats or greater shall have a minimum lot area of four (4) acres.

(b) No principal or accessory building shall be located less than fifty feet (50') from the right-of-way line at any public way.

7. Human service establishments.

8. Retirement home. (Ord. 80-131; Ord. 86-39; Ord. 86-119; 1968 Code § 14-15)

14-3-704: CONDITIONAL USES:

1. Libraries, museums and art galleries not operated for profit.

2. Public and nonpublic schools. (Ord. 80-131; 1968 Code § 14-15)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 8 R-5 - MULTI-FAMILY RESIDENTIAL

SECTION:

14-3-801: Description and Purpose
 14-3-802: Minimum Requirements
 14-3-803: Principal Permitted Uses
 14-3-804: Conditional Uses

14-3-801: DESCRIPTION AND PURPOSE: The R-5 Multi-Family Residential District is designed to accommodate a medium to high density residential development, i.e., apartment complex, condominium, townhouses. (Ord. 80-131; 1968 Code § 14-16)

14-3-802: MINIMUM REQUIREMENTS:

A. Minimum lot area per dwelling unit.

One-family dwellings. Four thousand (4,000) square feet.

Two-family dwellings. Three thousand (3,000) square feet.

Attached single-family other than duplexes. Two thousand two hundred (2,200) square feet per dwelling unit.

Multi-family dwellings.

One story. One thousand four hundred (1,400) square feet per dwelling unit.

Two story. One thousand one hundred (1,100) square feet per dwelling unit.

Three story. Nine hundred (900) square feet per dwelling unit.

Four story. Eight hundred (800) square feet per dwelling unit.

B. Minimum width of lot at building setback line (front and rear yards). Fifty feet (50').

C. Minimum yard dimensions.

C) Front Yard. Twenty feet (20').

Side Yard. Four feet (4') plus four feet (4') for each story that the principal building exceeds three (3) stories in height.

Sum of both side yards. Ten feet (10').

Rear Yard. Twenty five feet (25').

D. Maximum percentage of lot to be used. Principal and accessory buildings - forty percent (40%).

E. Maximum height of principal buildings. Forty five feet (45').

F. Landscape Requirements. See Sections 14-8-102E2 and 14-8-104 for parking lot landscaping requirements and Article 10 for other landscape requirements. (Ord. 80-131; Ord. 81-102; Ord. 86-39; Ord. 86-177; 1968 Code § 14-16)

14-3-803: PRINCIPAL PERMITTED USES:

1. One or two-family dwellings.

2. Multi-family dwellings.

3. Rooming house.

4. Fraternity houses and sorority houses.

5. Nursing Home.

6. Religious institutions.

7. Day Care Center.

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.

(NOTE: These minimum standards may need to be greater to comply with the landscape standards in Article 10, where applicable). Ord. 80-131; Ord. 86-39; Ord. 86-124; 1968 Code § 14-16)

8. Human service establishments.

9. Public and nonpublic schools.

10. Golf course.

11. Retirement home. (Ord. 80-131; Ord. 86-119; 1968 Code § 14-16)

14-3-804: **CONDITIONAL USES:**

1. Funeral parlors.

2. Hotels.

3. Hospitals.

4. Libraries, museums and art galleries not operated for profit.

5. Membership clubs.

6. Mini warehouses.

(a) Minimum lot area. Forty thousand (40,000) square feet.

(b) Minimum yard dimensions.

Front Yard. Twenty five feet (25').

Side Yard. Twenty feet (20').

Rear Yard. Twenty five feet (25').

(c) Maximum height of buildings. Thirty feet (30').

(d) Must provide living quarters for on-site manager.

(e) (Rep. by Ord. 86-124)

(f) Minimum landscaping.

Front Yard. Twenty five feet (25').

Side Yard. Ten feet (10').

Rear Yard. Ten feet (10').

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 9 MHP - MOBILE HOME PARK

SECTION:

- 14-3-901: Purpose
- 14-3-902: Criteria for Establishment of Zones
- 14-3-903: Principal Permitted Uses
- 14-3-904: Conditional Uses
- 14-3-905: Permitted Accessory Uses
- 14-3-906: Permitted Accessory Structures
- 14-3-907: Procedure for Establishment of Zone
- 14-3-908: Development Regulations
- 14-3-909: Existing Mobile Home Parks

14-3-901: **PURPOSE:**¹ The purpose of Mobile Home Park (MHP) zone is:

- A. To encourage the safe, healthful, and attractive physical development of mobile home parks.
- B. To provide rental spaces for mobile homes and permanent recreational vehicles.
- C. To encourage compatible land use relationships.
- D. To preserve the unique natural features of a site.
- E. To provide a means of regulating mobile home parks existing prior to the adoption of this Section. (Ord. 82-97)

14-3-902: **CRITERIA FOR ESTABLISHMENT OF ZONE:** All of the following criteria shall be met for the establishment of the MHP zone:

- A. The site conforms to the City's Comprehensive Plan.
- B. The development plan conforms to the requirements of the zone.
- C. The site and development plan encourage

C) compatible land use relationships.

D. The site will not overload existing public facilities, including but not limited to, utilities, drainage facilities, and streets. (Ord. 82-97)

14-3-903: **PRINCIPAL PERMITTED USES:**

- A. Manufactured Home.
- B. Mobile Home. (Ord. 84-326)

14-3-904: **CONDITIONAL USES:** The following conditional use is permitted when the requirements of Article 6 of this Chapter and the criteria set forth in this Section are met:

Single-family permanent recreational vehicles.

The following criteria shall apply to the conditional use:

- A. The development plan must specify the spaces intended for this use.
- B. The spaces must be grouped together and designed so as not to interfere with the principal permitted use.
- C. Permanent recreational vehicles may be moved onto a designated space no more than once every three (3) months. The Planning Director may waive this requirement upon demonstration of good cause. (Ord. 82-97)

14-3-905: **PERMITTED ACCESSORY USES:**

- A. Mobile home park office.
- B. Mobile home park clubhouse.
- C. Mobile home park laundry.

¹ See Article 1 of this Chapter for definitions.

- D. Recreational facilities for the use of the mobile home park residents.
- E. Common storage areas for the use of the mobile home park residents.
- F. Other accessory uses may be approved with the development plan if such uses meet the requirements under Sections 14-4-101A and E of this Chapter, and are designed to serve the residents of the mobile home park.
- G. The provisions of Section 14-4-101B, C and D of this Chapter are not applicable to this Part. (Ord. 82-97)

14-3-906: PERMITTED ACCESSORY STRUCTURES:

- A. One detached storage building per space, one hundred (100) square foot maximum size.
- B. One detached or attached carport per space.
- C. One attached awning, deck, balcony, covered porch, or combination thereof, per space. (Ord. 82-97)

14-3-907: PROCEDURE FOR ESTABLISHMENT OF ZONE:

- A. Pre-Application Conference. The applicant is encouraged to meet with the Planning Department prior to submittal of the application for zoning.
- B. Application for Zoning. The applicant for an MHP zone shall make written application to the Planning Commission. The application shall be accompanied by a concept statement and a development plan.
- C. Concept Statement Requirements. The concept statement shall address the following issues: Justification for Master Plan amendment (where necessary), justification for zone change, overall intent of project, general uses, use of design features such as street layout, open space, and landscaping, and relationship to surrounding properties.
- D. Development Plan Requirements. The development plan shall be submitted with the applica-

- D) tion for zoning, and shall be reviewed by the City Planning Department and approved by the City Planning Commission and City Council in accordance with the criteria for review in Section 14-5-104 of this Chapter. The provisions of Section 14-5-103 of this Chapter are not applicable to this Part. All development plans submitted shall contain the following information:

1. Completed application form.
2. Indication of appropriate scale and bar scale.
3. North arrow.
4. Vicinity map (not to scale).
5. Acreage of park, with site dimensions.
6. Number and designation of mobile home and permanent recreational vehicle spaces. Each space shall be numbered in accordance with the requirements of this Code and specifically Section 16-1-505C.
7. Space dimensions.
8. Public and private easements.
9. All existing and/or proposed entrance and exit curb cuts, deceleration and acceleration lanes, and other traffic devices.
10. Interior circulation system, including all names of streets, both public and private. Any private street shall be designated by including "(private)" immediately following the street name.
11. Location, number, and typical dimensions of all parking areas.
12. Existing and proposed contours at two foot (2') intervals.
13. All uses, including common open space.
14. Location and dimension of fences.
15. Location and dimension of signs.
16. Proposed development schedule.
17. Landscaping plan. (See Article 10 of this Chapter.)

D) 18. Adjacent zoning and land use.

19. Legal description.

20. Any existing or proposed adjoining public improvements, rights of way or drainageways, including all names of rights of way, both public and private, or any other commonly known and used name.

E. Certificate of Conformity.

1. Following zoning and development plan approval, all mobile homes and permanent recreational vehicles, prior to placement in the mobile home park, shall receive a certificate of conformity from the Planning Department.

2. The certificate of conformity shall certify that the placement of the mobile home or recreational vehicle conforms to the approved development plan.

3. The certificate of conformity shall include the name of the mobile home park, the number of the spaces, and a site plan showing space size and dimensions, mobile home dimensions, accessory structures and dimensions, and distance from the space boundaries, adjacent mobile homes or permanent recreational vehicles, and accessory structures.

F. Amendment to the Development Plan. Amendments to the development plan shall be submitted for approval by the City Planning Department. The Planning Department shall review the submittal for conformance to this Article and notify the applicant of deficiencies. The Planning Department shall review a complete plan submittal and submit a written copy of the findings to the applicant within twenty (20) working days after the complete submittal has been made.

Any request waivers to this Part submitted in conjunction with the development plan shall require approval of the City Planning Commission and City Council. (Ord. 82-97; Ord. 82-187; Ord. 86-106)

14-3-908: DEVELOPMENT REGULATIONS: These development regulations shall apply to

mobile home parks constructed after the adoption of this Part.

A. Mobile Home Park Size. Minimum size - ten (10) acres.

B. Frontage. All mobile homes and permanent recreational vehicles shall have access from an interior street.

C. Placement. All mobile homes and permanent recreational vehicles shall be placed in accordance with the approved development plan.

D. Minimum Mobile Home Space Size.

1. Mobile home - three thousand six hundred (3,600) square feet.

2. Permanent recreational vehicle - two thousand one hundred (2,100) square feet.

E. Minimum Space Dimensions.

1. Mobile home - forty feet (40') wide, ninety feet (90') long.

2. Permanent recreational vehicle - thirty five feet (35') wide, sixty feet (60') long.

F. Minimum Dimensional Setbacks.¹

1. Mobile homes and permanent recreational vehicles (principal uses).

a. Side Space Setback (Principal Use to Principal Use) - minimum of twelve feet (12').

b. Rear Space Setback (Principal Use to Principal Use) - minimum of twelve feet (12').

c. Front Space Setback (Principal Use to Interior Street) - minimum of ten feet (10'). A minimum of twenty feet (20') shall be required where front space parking is provided.

d. Principal Use Adjacent to Mobile Home Park Boundary Where the Adjacent Land Use is -

1. See Part 8 of Article 2, Chapter 16 for other setback requirements.

- F,1) Minor Street¹ - minimum fifteen feet (15').
 Major Street² - minimum twenty five feet (25').
 Public Park - minimum fifteen feet (15').
 Other - minimum twenty five feet (25').

2. Permitted Accessory Uses.

a. Adjacent to Interior Street - minimum of fifteen feet (15').

b. Adjacent to Principal Use - minimum of twelve feet (12').

c. Adjacent to Mobile Home Park Boundary - minimum of twenty five feet (25').

3. Permitted Accessory Structures.

a. None permitted within twelve foot (12') rear space setbacks.

b. From permitted awnings, decks, balconies, carports or covered porches, a minimum of six feet (6') shall be provided to the next principal use or accessory structure.

c. Storage buildings shall be a minimum of three feet (3') from a principal use or accessory structure, shall not cross space lines, and shall not be permitted in the front space setback.

- G. Height. Maximum permitted height - thirty feet (30').

H. Off-Street Parking.³

1. Required off-street parking for principal permitted uses shall be located on each designated space.

2. Off-street parking shall be located in only one side space setback or in the front space setback.

3. Required off-street parking for accessory uses shall be located adjacent to the use.

- I. Common Open Space. No fixed amount of common open space is required, but it shall be provided in the mobile home park and reviewed

- I) as part of development plan approval based on its contribution to the following criteria:

1. Provision of interior walkways and active and passive recreational areas.

2. Privacy between uses within the park and between the mobile home park and adjacent land uses and streets.

3. Effect on the overall mobile home park design.

4. Use of natural features.

- J. Landscaping. No fixed amount of landscaping is required, but it shall be provided in the mobile home park and reviewed as part of development plan approval based on its contribution to the following criteria:

1. Enhancement of common and private open space.

2. Privacy between uses within the park and between the mobile home park and adjacent land uses and streets.

3. Passive solar benefits.

4. Effect on the overall mobile home park design.

- K. Exterior Fencing. When deemed necessary, based on recommendation from the Noise Abatement Administrator, exterior fencing shall be required for a mobile home park to provide for noise reduction. The Planning Director may require exterior fencing for purposes of visual screening. Location and design shall be established through development plan review and approval.

L. Common Storage Areas.

1. A common storage area for the use of the mobile home park residents shall be provided. A minimum of one hundred (100) square feet of common storage area per mobile home space shall be provided. The area shall be paved and fenced.

1. See Part 7 of Article 3, Chapter 15 for definition of Minor and Major Streets.

2. Ibid.

3. See Section 14-8-104.38 of this Chapter for definitions for additional parking requirements.

- L) 2. Recreational vehicles (not for occupancy in the park), boats, and similar vehicles are to be parked in this area.
- 3. Individual storage buildings, or a common storage building, may be provided in this area.
- M. Circulation. Two (2) twenty foot (20') wide streets shall be provided as access to the park. One may be used as an emergency entrance only, subject to development plan approval.
- N. Skirting. All mobile homes shall be skirted. (Ord. 82-97; Ord. 82-187)

14-3-909: EXISTING MOBILE HOME PARKS:

- A. Purpose. It is the intent of this Section to provide a means of review for existing mobile home parks. An existing mobile home park is one which is existing at the time of adoption of this Article. The purpose is to:
 - 1. Provide for the public health, safety, and general welfare.
 - 2. Provide development plans for existing parks.
 - 3. Encourage improvement of design and land use compatibility.
 - 4. Abate environmental deficiencies, including but not limited to inadequate separation between uses, inadequate off-street parking, open space and landscaping, and removal of trash and refuse. Abatement shall be based on a review in accordance with the provisions of this Part.
- B. Development Plan Required.
 - 1. All existing mobile home parks in the City of Colorado Springs shall submit a development plan to the City Planning Department no later than December 31, 1982.
 - a. No processing fee will be required.
 - b. The development plan will conform to the requirements of Section 14-3-907C of this

- B,1) Part (except subsections 12 and 16). The development plan shall specify all proposed setbacks for principal and accessory structures.

c. The Planning Department shall review the submittal for completeness and notify the applicant of deficiencies. The Planning Department shall review a complete plan submittal and submit a written copy of the findings to the applicant within twenty (20) working days after the complete submittal has been made.

d. Amendments to the development plan shall be processed in accordance with Section 14-3-907E of this Part.

e. Mobile home space sizes, permitted and accessory uses, minimum setbacks for principal uses, accessory uses, and accessory structures, maximum permitted height, off-street parking requirements, common open space, landscaping, exterior fencing, and common storage areas shall be established for existing mobile home parks through development plan approval.

2. The Planning Department shall review development plans for existing mobile home parks based on the following criteria:

- a. Purpose of the MHP zone.
- b. Criteria for establishment of the MHP zone.
- c. Predominant use in the mobile home park.
- d. Review shall recognize a balance between the possible need for changes in the mobile home park and the fact that the use is existing. Review of the development plan as pertains to developmental deficiencies shall be in accordance with the criteria in Section 14-5-104 of this Chapter, as shown below:

(1) Does the proposed development have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood of the proposed development?

B,2,d) (2) Does the proposed development provide for adequate light and air both on and off the site?

(3) Are the height, area, setbacks and bulk of the structures plus the landscaping appropriate to the development, the neighborhood and the community?

(4) Are the ingress/egress points, the internal traffic circulation, off-street parking facilities, loading and service areas and pedestrian ways designed so as to promote safety, convenience and ease of traffic flow both on and off the site?

(5) Does the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?

(6) Does the proposed development promote the conservation of the existing property values of adjacent areas and the stabilization of surrounding residential neighborhoods?

(7) Does the development plan show how any potentially poor use to use relationships (commercial use adjacent to single-family homes) will be mitigated?

(8) Is the proposed development plan in conformance with all elements of the City's Comprehensive Plan?

3. The City Planning Department shall recommend to the City Planning Commission and City Council one of the following actions for the development plan:

a. Approval with no changes to be required in the mobile home park.

b. Approval with changes to be required in the mobile home park. The changes and a time schedule for implementation shall be specified as a condition of approval.

c. Approval with changes to be required in the mobile home park and recommendation of zone change to either recreational vehicle park or mobile home park (conditional use

B,3) only). The changes and a time schedule for implementation shall be specified as a condition of approval.

d. Denial with recommendation of zone change and abatement of existing use. Abatement shall proceed on a time schedule approved for the specific mobile home park.

4. An existing mobile home park with an approved development plan shall constitute a legal conforming use.

C. Nonconforming Existing Mobile Home Parks.

1. The provisions of Article 13 (Nonconforming Uses) of Chapter 14 shall not apply to existing mobile home parks after December 31, 1982.

D. Certificate of Conformity.

1. Certificates of conformity, as required in Section 14-3-907D of this Part, shall be required for existing mobile home parks.

2. Certificates of conformity for existing mobile home parks shall be issued only in accordance with the provisions of this Part.

3. Certificates of conformity will not be issued to existing mobile home parks after December 31, 1982 until a development plan has been approved in accordance with the provisions of this Part.

4. During the period between the adoption of this Article and development plan approval, or December 31, 1982, whichever occurs first, certificates of conformity shall be issued according to the criteria below, whichever is least restrictive.

a. The placement of the mobile home meets the zoning requirements which control the existing mobile home park as determined by Article 13 of Chapter 14, or

b. The placement of the mobile home meets the dimensional setbacks of Section 14-3-908F of this Part and does not increase the total number of spaces in the mobile home park and adequate off-street parking is provided. (Ord. 82-97; Ord. 82-187)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 10 MHS - MANUFACTURED HOME SUBDIVISION

SECTION:

84-326; 1968 Code § 14-42.6)

- 14-3-1001: Where Established
- 14-3-1002: Area; Configuration
- 14-3-1003: Application; Letter of Intent
- 14-3-1004: Plans; Action by Planning Department and Planning Commission
- 14-3-1005: Development Plan
- 14-3-1006: Permitted Uses
- 14-3-1007: Overall Subdivision Requirements
- 14-3-1008: Individual Lot Requirements
- 14-3-1009: Landscaping
- 14-3-1010: Special Provisions
- 14-3-1011: Accessory Uses
- 14-3-1012: Conditional Uses
- 14-3-1013: Additional Powers; Regulations, Fees, Inspections
- 14-3-1014: Time Limitation; Abandonment

14-3-1001: **WHERE ESTABLISHED:** A manufactured home subdivision, hereinafter MHS, may be established on any tract of land held in single ownership or unified control provided that the proponent of an MHS zone shall show and the Planning Commission and the City Council shall find:

- A. That a need exists for the proposed MHS.
- B. That the site is in conformance with sound planning principles and the land use plan of the area.
- C. That the site shall not be exposed to objectionable smoke, noise, odor or other adverse influences.
- D. That the site has an acceptable relationship to the major traffic thoroughfare plan and that the site is accessible to mobile homes without causing disruption in residential areas.
- E. That the proposed MHS will not over-capacitate utility and drainage facilities. (Ord. 80-131; Ord.

14-3-1002: **AREA; CONFIGURATION:** The minimum area of a MHS shall be twenty (20) acres. The land proposed to be zoned MHS shall have such a configuration as to be developed in a reasonable manner in conformance with the MHS requirements set forth below. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1003: **APPLICATION; LETTER OF INTENT:**
The proponent of an MHS zone shall make written application to the Planning Commission on the forms and in the manner prescribed by the Planning Commission. The proponent of the MHS zone shall also submit with his application a letter of intent setting forth all information relevant to the zoning request including but not limited to:

- A. Total number of acres in the MHS.
- B. Acreage and percent of land within the MHS zone to be set aside as open space.
- C. The type of proposed recreational facilities.
- D. The estimated population of the MHS zone and number of units to be incorporated into the zone.
- E. The dwelling unit density per acre.
- F. The standard or typical lot width and length.
- G. Proposal for phasing development, if any.
- H. The schedule of development.
- I. The source of water and sewer service. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1004: **PLANS; ACTION BY PLANNING DEPARTMENT AND PLANNING COMMISSION:**

- A. Submission of Development Plan to the Planning Department. The proponents of a MHS zone shall submit to the Planning Department a final development plan in conformance with the regulations as set forth in this Part. The Planning Department must review and make its recommendation in writing concerning the development plan submitted within fifteen (15) working days after said plan has been submitted. The Director of Planning shall report to the Planning Commission every final development plan approved by the Planning Department with all conditions for said approval.
- B. Appeal of the Planning Department's decision to the Planning Commission shall follow the procedures in Section 14-17-113A. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1005: DEVELOPMENT PLAN: The development plan shall be submitted to the Planning Department. Such plan will not be accepted unless the plan contains the following required information and meets the following requirements:

- A. The approximate location of such existing building and proposed structure in the development area, the height of the structures and the use or uses to be contained therein.
- B. The proper setbacks must be indicated with reference to property lines, highways or street rights of way.
- C. The approximate location, surface treatment and number of spaces for all parking areas other than those on individual mobile home lots.
- D. The approximate location of water courses and other natural or historic features.
- E. Contours of the area and the location of all streets and walkways, including all names of streets, both public and private, or any other commonly known and used name. Any private street shall be designated by including "(private)" immediately following the street name.
- F. The location and street names of all permanent accesses from publicly dedicated streets, roads or highways.
- G. Should any of the street grades exceed a three percent (3%) grade, the increased percent of grade should be indicated on the right-of-way center line.
- H. Landscaping plan (See Article 10 of this Chapter).
- I. The plan shall be drawn to scale. It shall show any existing developments and improvements of adjacent properties lying within three hundred feet (300') of the proposed project.
- J. Typical sizes and layouts of mobile home spaces throughout the MHS, including parking, mobile home location, landscaping, etc. Each space shall be numbered in accordance with the requirements of this Code and specifically Section 16-1-505C.
- K. The location, height and square footage of any identification sign.
- L. A vicinity map to locate the project in relation to the community.
- M. If appropriate, the stages in which the project will be developed.
- N. A schedule of development showing:
 - 1. Date when construction of project can be expected to begin.
 - 2. Stages in which the project will be completed and approximate date when construction on each stage can be expected to begin.
 - 3. The area and location of open space to be provided in each stage. (Ord. 80-131; Ord. 86-39; Ord. 86-106; 1968 Code § 14-42.6)

14-3-1006: PERMITTED USES:

- A. Factory Built Homes.
- B. Manufactured Homes. (Ord. 84-326)

14-3-1007: OVERALL SUBDIVISION REQUIREMENTS: The MHS shall conform to the following requirements:

- A. Interior Orientation. Lots on the periphery of the subdivision must front towards the interior of the subdivision. No residential lot in the MHS may front on a street where the opposite side of the street is in a different zone.
- B. Fences. The boundary of an MHS shall be fenced at the property line except:
 - 1. When adjacent to a dedicated park or open space, a landscaped buffer may be used, and
 - 2. The developer has the option of providing a landscaped area adjacent to public streets and moving the fence back twenty feet (20') from the property line.
 - 3. When the boundary of the MHS is adjacent to a public street and the developer elects to put the fence at the property line, the setback for mobile homes will be twenty feet (20') from the property line of the MHS.
- C. Open Space. There shall be provided a minimum amount of eight percent (8%) of the total area of an MHS for open space purposes. This area shall not be included in that reserved for service facilities and other incidental uses, nor for areas of required setbacks. This area shall be suitably landscaped.
- D. Maintenance of Common Properties. A homeowner's association is required unless there are other methods acceptable to the City for maintaining common properties.
- E. Common Areas. Areas for storage and parking of travel trailers, boats, etc., shall be provided throughout the subdivision for the use of the occupants. These areas shall be paved and fenced. In determining the amount of common area necessary for the entire subdivision, a factor of one hundred (100) square feet per mobile home lot should be used. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1008: INDIVIDUAL LOT REQUIREMENTS:

Lots should be made large enough to accommodate the largest type of mobile home units and major additions.

- A. Dimensional Standards.

- A) 1. Minimum lot areas:

(a) For principal structures of less than one thousand (1,000) square feet - five thousand (5,000) square foot lot area.

(b) For principle structures one thousand (1,000) square feet or more - six thousand (6,000) square foot lot area.

- 2. Minimum setback requirements:

Front Yard. Twenty feet (20').

Side Yard. Ten feet (10').

Rear Yard. Ten feet (10'). When adjacent to the MHS property line which is adjacent to a public street, twenty feet (20').

- B. All mobile homes shall be skirted. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1009: LANDSCAPING: All required setbacks and open space at the MHS shall be adequately landscaped to provide a park-like appearance. The screening buffer and setbacks adjacent thereto shall be maintained by a homeowner's association or other method acceptable to the City. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1010: SPECIAL PROVISIONS: The purpose of this Section is to encourage imagination in design towards a better living environment.

- A. Modification for Subdivision Regulations. The subdivision of land zoned MHS shall be subject to such requirements for approval and recording as have been established by Article 3 of Chapter 15 of this Code except as herein specified. The uniqueness of each proposal for MHS requires that the specifications for the width and surfacing of streets and highways, alleyways for public utilities, for curbs, gutters, sidewalks, street lights, public parks and playgrounds, school sites, storm drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications

- A) established by the subdivision code. The City Planning Commission may, therefore, waive or modify the specifications otherwise applicable for a particular public facility where the Planning Commission finds that such specifications are not required in the interest of the MHS and that the modifications of such specifications are not inconsistent with the interests of the City.
- B. Modification of Zoning Regulations. Lot sizes may be reduced from the minimum provided that:
1. A minimum of forty percent (40%) of the amount of the reduction be converted to open space.
 2. A minimum of ten percent (10%) of the amount of the reduction be devoted to common storage areas for recreational vehicles.
 3. A maximum of fifty percent (50%) of the amount of the reduction may be devoted to new lots.
- C. If lot sizes are reduced in accordance with B1 above, then:
1. The minimum frontage shall be fifteen feet (15').
 2. There will be no minimum lot depth.
 3. The minimum setbacks shall be:

Front Yard. Ten feet (10').

Side Yard. Ten feet (10').

Rear Yard. Ten feet (10').
- There shall be no minimum side or rear yard setback requirement if provisions are made through platting so as to insure that no mobile home will be closer than twenty feet (20') to any other mobile home in any direction. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1011: ACCESSORY USES: Any similar accessory uses which are normally

considered essential to the permitted uses. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1012: CONDITIONAL USES: There are no conditional uses. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1013: ADDITIONAL POWERS; REGULATIONS, FEES, INSPECTIONS: The Planning Commission shall have power to make and adopt such rules and regulations as are necessary and proper to effectuate the purposes of this Article, relative to MHS districts, and to recommend such scheduled fees as are required to cover the cost of advertising, inspection and review of each project, which said rules, regulations and fees shall be effective upon approval by the City Council. Also, the subdivision of land zoned "MHS" district shall be subject to such requirements for approval and recording as have been established by the subdivision code. (Ord. 80-131; 1968 Code § 14-42.6)

14-3-1014: TIME LIMITATION; ABANDONMENT: The development plan shall be valid for a period of two (2) years beginning with the approval date of the development plan by the Planning Department. Failure to begin construction within this period shall void the plan as approved unless a request for an extension of time is granted in writing by the Planning Director. (Ord. 80-131; 1968 Code § 14-42.6)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 11 OR - OFFICE RESIDENTIAL

SECTION:

- 14-3-1101: Description and Purpose
- 14-3-1102: Minimum Requirements
- 14-3-1103: Principal Permitted Uses
- 14-3-1104: Conditional Uses
- 14-3-1105: Development Plan
- 14-3-1106: Outdoor Storage

14-3-1101: **DESCRIPTION AND PURPOSE:** The OR zone is a transitional zone district allowing for both multi-family residential and professional offices. The zone is directed to smaller office sites which need a careful evaluation of use-to-use compatibility such that the stability and value of the surrounding neighborhood is best protected. (Ord. 80-131)

14-3-1102: **MINIMUM REQUIREMENTS:**

- A. Maximum height of principal building. Thirty five feet (35').
- B. Minimum yard dimensions.

Front Yard. Twenty five feet (25').

Side Yard. No side yards are required in this zone; except, that where a building adjoins a residential zone, a side yard shall be provided for the same size as required in the residential zone.

Rear Yard. Twenty feet (20').
- C. Minimum lot size. Five thousand (5,000) square feet.
- D. Minimum lot frontage at building setback. Fifty feet (50').
- E. Minimum lot size for residential.

E) Single-family - Five thousand (5,000) square feet.

Two-family - Three thousand (3,000) square feet per dwelling unit.

Multi-family (per unit) -

One story. One thousand four hundred (1,400) square feet.

Two story. One thousand one hundred (1,100) square feet.

Three story. Nine hundred (900) square feet.

Four story. Eight hundred (800) square feet.

F. Maximum percentage of lot to be used. Principal and accessory buildings - fifty percent (50%).

G. Landscape Requirements. See Sections 14-8-102E2 and 14-8-104 for parking lot landscaping requirements and Article 10 for other landscape requirements. (Ord. 80-131; Ord. 86-39; Ord. 86-177)

14-3-1103: **PRINCIPAL PERMITTED USES:**

- 1. Offices.
- 2. Religious institutions.
- 3. Pharmacies incidental to a medical or dental office within the same building.
- 4. Funeral parlors.
- 5. Educational institutions.
- 6. Libraries, museums and art galleries not operated for profit. (Ord. 80-131)

14-3-1104: CONDITIONAL USES:

1. All residential dwelling types.
2. Mixed use (i.e., office and residential) includes one or more structures.
3. Human service establishments.
4. Day care center:

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway. (Ord. 80-131; Ord. 86-119)

14-3-1105: DEVELOPMENT PLAN: (See Article 5, Development Plans)

- A. Any requested zone change to OR shall be accompanied with a development plan and landscape plan (see Article 10, Landscape Plan).
- B. All property zoned OR after the adoption of this Chapter, with an existing permitted use allowed in this zone, shall submit a development plan and landscape plan to the Planning Department for review and approval prior to the issuance of a building permit for any outside expansion to the existing building.
- C. Amendments to approved development plans:
 1. The Planning Director may approve minor amendments in keeping with the intent and purpose of the zone, or refer the plan to the Planning Commission at the regularly scheduled Planning Commission meeting or informal Planning Commission meeting.
 2. The Planning Department will notify in writing the applicant within twenty (20) working days of the (correct) submittal as to approval, denial or referral to the Planning Commission.

- D. Emphasis in the development plan review will be placed on the compatibility of the development to the immediate surrounding property. Critical aspects of the plan include but are not limited to siting of the building, screening, landscaping and internal traffic movement. (Ord. 80-131)

14-3-1106: OUTDOOR STORAGE: Outdoor storage of any materials related to office uses shall be prohibited. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 12 OC - OFFICE COMPLEX

SECTION:

- 14-3-1201: Description and Purpose
- 14-3-1202: Minimum Requirements
- 14-3-1203: Principal Permitted Uses
- 14-3-1204: Conditional Uses
- 14-3-1205: Concept Statement and Plan
- 14-3-1206: Development Plan
- 14-3-1207: Outside Storage

14-3-1201: DESCRIPTION AND PURPOSE: The OC Office Complex zone is designed to accommodate various types of office uses performing administrative, professional and personal services. These are typically small office buildings developed in a cluster with an internal traffic system, or one larger office building with considerable landscaping. This type of development can serve as a transitional use between more intensive uses of land such as major thoroughfares and/or commercial districts and the less intensive uses of land such as single family residential. Due to the built-in flexibility of the OC zone, it is highly recommended that the applicant meet with the City Planning Department staff prior to any submittal to avoid unnecessary delay. (Ord. 80-131)

14-3-1202: MINIMUM REQUIREMENTS:

- A. Maximum height of principal building. Forty five feet (45').
- B. Minimum yard dimensions.

Front Yard. Twenty five feet (25') along the periphery of the zone district. Front yard setbacks within the interior of the OC zone shall be established with the development plan.

Side Yard. No side yards are required in this zone; except, that where a lot adjoins a

- B) residential zone, a side yard of twenty feet (20') shall be provided.

Rear Yard. Twenty feet (20') along the periphery of the zone district. No rear yard setback is required within the interior.

- C. Minimum zone district size. Ten thousand (10,000) square feet.
- D. Minimum lot size. None.
- E. Minimum lot frontage. None.
- F. Minimum lot size for residential. Same as R-5.
- G. Maximum percentage of district coverage by principal and accessory buildings. Forty percent (40%).
- H. Landscape Requirements. See Section 14-8-104 for parking lot landscaping requirements and Article 10 for other landscape requirements. (Ord. 80-131; Ord. 86-39; Ord. 86-177)

14-3-1203: PRINCIPAL PERMITTED USES:

1. All permitted uses and conditional uses listed in the OR Office Residential zone district.
2. Banks and similar financial institutions.
3. Hospitals.
4. Private, social or fraternal clubs or lodges.
5. Photographic studios and interior decorating studios.
6. Private health clubs.
7. Restaurants (only those eating establishments where food and beverages are ordered, served and consumed at a table or counter on the premises).

8. Veterinary clinics and animal hospitals provided all activities are conducted within a totally and permanently enclosed building.

9. Accessory buildings or uses customarily incidental to any of the above permitted uses.

10. Barber and beauty shops. (Ord. 80-131; Ord. 81-102)

14-3-1204: **CONDITIONAL USES:**

1. Mini warehouses.

(a) Minimum lot area. Forty thousand (40,000) square feet.

(b) Minimum yard dimensions.

Front Yard. Twenty five feet (25').

Side Yard. Twenty feet (20').

Rear Yard. Twenty five feet (25').

(c) Maximum height of building. Thirty feet (30').

(d) Must provide living quarters for on-site manager.

(e) (Rep. by Ord. 86-124)

(f) Minimum landscaping.

Front Yard. Twenty five feet (25').

Side Yard. Ten feet (10').

Rear Yard. Ten feet (10')

(NOTE: These minimum standards may need to be greater to comply with the landscape standards in Article 10, where applicable).

2. Business park. (Ord. 80-131; Ord. 81-102; Ord. 86-39; Ord. 86-124)

14-3-1205: **CONCEPT STATEMENT AND PLAN:**

- A. Concept Statement. Any requested zone change to OC shall be accompanied with a concept statement which includes a description of the applicant's intent, general uses, access, range of square footage, free-standing buildings or one or more larger buildings and how the property will relate to the surrounding properties.
- B. Concept Plan. A concept plan is a visual representation of the concept statement. Although the concept plan is not a requirement of submittal with the zone change request, it is encouraged in order to provide needed information that may support the request.
- C. Phased Plan. Based on the approved concept plan the owner or owners of a OC may submit a phased plan of development on the entire OC. The phases shall be a logical division of the OC based on the approved concept statement and/or plan. The phased plan shall be submitted to the Planning Department for approval.
- D. Amendments to Concept Statement and/or Concept Plan. Written request must be made to the Planning Department for a change to the approved concept statement and/or plan. The Planning Director may approve the amendment to the concept statement and/or plan or refer the request to the Planning Commission. (Ord. 80-131)

14-3-1206: **DEVELOPMENT PLAN:**

- A. Submission. After a property is zoned OC with an approved concept statement, individual development plans and landscape plans shall be submitted to the Planning Department for review. No building permits may be issued until the development plan is approved. The development plan shall include all information as stated in Article 5, "Development Plans"

- A) and Article 10, "Landscaping". In addition, the development plan shall provide sufficient information to indicate how the development plan coincides with the approved concept statement and/or concept plan. (i.e., traffic circulation, common areas, relationship to other parcels or buildings, common parking areas)
- B. Review and Approval. The Planning Department shall review the submitted development plan and landscape plan in accordance with the approved concept statement and/or concept plan. The development plan may be approved or referred to the Planning Department at the next regularly scheduled meeting. The Planning Department will notify the applicant in writing within twenty (20) working days of the (correct) submittal as to approval or referral to the Planning Commission.
- C. Amendments. All amendments to an approved development plan shall be processed in the same manner as the original development plan. (Ord. 80-131)

14-3-1207: **OUTDOOR STORAGE:** Outdoor storage of any materials related to office uses shall be prohibited. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 13 PBC-1 - PLANNED BUSINESS CENTER

SECTION:

14-3-1301: Description and Purpose
 14-3-1302: Where Established
 14-3-1303: Size of District
 14-3-1304: Zone Control Statement
 14-3-1305: Use Restrictions
 14-3-1306: Permitted Uses
 14-3-1307: Accessory Uses
 14-3-1308: Conditional Uses
 14-3-1309: Development Regulations (PBC-1)
 14-3-1310: Concept Statements, Plans
 14-3-1311: Development Plan

14-3-1301: DESCRIPTION AND PURPOSE: The PBC-1 zone is designed for commercial uses that serve an adjoining neighborhood or neighborhoods and to preserve and enhance areas with a range of retail sales and service establishments for both short and long term needs. The PBC-1 will provide ease of vehicular circulation and a compatible relationship to surrounding properties through an overall planning approach and evaluation of the site. (Ord. 80-131)

14-3-1302: WHERE ESTABLISHED:

A. A PBC-1 may be established on any tract of land which meets the requirements of this Part 13, and which is held in single ownership or is under unified control. Should ownership or control become diversified after proceedings hereunder are commenced, the regulations set forth in this Part 13 shall continue to apply to the whole PBC-1 tract as a unit, and diversification of ownership shall not be deemed a valid basis or justification for a variance or an amendment to a previously-approved development plan. All development in a PBC-1 shall be in conformance with an approved development plan.

B. The person seeking to establish a PBC-1 shall establish the following requirements to the satisfaction of the Planning Commission and the City Council, or to the City Council on appeal.

1. That the site location of the PBC-1 has a reasonable relationship to the established major traffic thoroughfare plan of the City and the official land use plan of the City, and that the site has direct access to a public right of way.

2. That the proposed PBC-1 when considered in relation to the surrounding area and adjacent zoning will not create strip commercial zoning.

3. That the proposed PBC-1 will not overload existing or planned utility lines or drainageways. Reports from the Department of Utilities and Department of Public Works shall be prima facie evidence of the existence or nonexistence of such overload.

4. That the proposed PBC-1 will not overload nearby traffic thoroughfares or street intersections. Reports from the Traffic Engineer shall be prima facie evidence of the existence or nonexistence of such overload.

5. That the proposed PBC-1 will conform with the purpose of this Chapter. (Ord. 76-179; Ord. 80-131; 1968 Code § 14-18)

14-3-1303: SIZE OF DISTRICT:

A. Minimum. One acre.

B. Maximum. Five (5) acres. (Ord. 80-131)

14-3-1304: ZONE CONTROL STATEMENT:

Simultaneously with final passage of the ordinance establishing the PBC-1 zone, the landowner(s) shall cause to be recorded with the

Clerk and Recorder of El Paso County the following statement:

"PBC-1 ZONE CONTROL

The following described property located at

 (address) (fill in property description)

is zoned PBC-1 in accordance with the Code of the City of Colorado Springs. Such zone requires a development plan and unified control over elements of the plan and certain areas, as set forth in the plan, are subject to common public usage." (Ord. 76-179; Ord. 80-131; 1968 Code § 14-18)

14-3-1305: USE RESTRICTIONS:

- A. In a PBC-1 zone no uses shall be noxious or offensive by reason of the emission of dust, odor, light, smoke, gas, fumes, noise or vibrations. Air, water and noise pollution shall not exceed Federal, State and local standards.
- B. All uses shall be conducted within enclosed buildings except as otherwise indicated in this Part 13.
- C. No building or land shall be used and no building shall be erected, structurally altered or enlarged which is intended for other than the permitted uses or conditional uses listed in this Part 13.
- D. No single use may occupy more than seventy percent (70%) of the gross floor area of the building or buildings within the district. (Ord. 76-179; Ord. 80-131; 1968 Code § 14-18)

14-3-1306: PERMITTED USES:¹

- 1. Any retail or commercial use, which shall mean for the purpose of this Part 13 any sale of goods or services for which monetary currency is exchanged.
- 2. Any indoor recreational use.
- 3. Offices.
- 4. Social service center. (Ord. 80-131; Ord. 86-229; 1968 Code § 14-18)

¹ See also Section 14-11-103 of this Code.

14-3-1307: ACCESSORY USES: Any accessory use customarily incidental to any permitted use is permitted. Such accessory uses shall include the following uses which may be conducted outside of, but adjacent to, an enclosed building:

- 1. The sale of garden supplies and packaged nursery stock in an opaque screened area.
- 2. Outdoor extension of food service establishments.
- 3. Motor vehicle service station fuel pumps. (Ord. 80-131; 1968 Code § 14-18)

14-3-1308: CONDITIONAL USES:

- 1. Dwellings.
- 2. Outdoor recreational facilities, either public or private excluding drive-in theaters.
- 3. Adult uses; provided, however, such adult use shall not be within five hundred feet (500') of any residential zoning district, a church or an educational institution, as defined in this Chapter (whether within or without the City) and such adult use shall not be within one thousand feet (1,000') of any other adult use. A variance of the foregoing restrictions may be applied for in accordance with this Chapter.
- 4. Religious Institutions.
- 5. Car wash facility which is not conducted within an enclosed building.
- 6. Human service establishment.
- 7. Day care center:

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway. (Ord. 80-131; Ord. 81-102; Ord. 85-43; Ord. 86-119; 1968 Code § 14-18)

14-3-1309: DEVELOPMENT REGULATIONS (PBC-1):

- A. Height. Forty five feet (45'), including roof top mechanical structures.
- B. Building Setback. The minimum building setback from any perimeter boundary of the PBC-1 zone shall be twenty five feet (25'). Such twenty five foot (25') setback is not required from any internal lot lines within the PBC-1.
- C. Landscape Requirements. See Section 14-8-104 for parking lot landscaping requirements and Article 10 for other landscape requirements.
- D. (Rep. by Ord. 86-124)
- E. Landscaping. Landscaping will be reviewed primarily on the basis of:

(a) Its contribution to the overall enhancement of the center and its parts.

(b) Its contribution to the sense of unity of the center.

(c) Its use of plant materials to provide appropriate relief from the inanimate nature of the rest of the center.

- E) (d) The appropriateness of plant materials for this area and for the intended purpose. (Ord. 76-179; Ord. 80-131; Ord. 86-39; Ord. 86-124; Ord. 86-177; 1968 Code § 14-18)

14-3-1310: CONCEPT STATEMENTS, PLANS:

- A. Concept Statement. Any requested zone change to PBC-1 shall be accompanied with a concept statement which includes a description of the applicant's intent, general uses, access, range of square footage, free-standing buildings or one or more larger buildings and how the property will relate to the surrounding properties.
- B. Concept Plan. A concept plan is a visual representation of the concept statement. Although the concept plan is not a requirement of submittal with the zone change request, it is encouraged in order to provide needed information that may support the request.
- C. Amendment to Concept Statement and/or Concept Plan. Written request must be made to the Planning Department for a change to the approved concept statement and/or plan. The Planning Director may approve the amendment.

- C) to the concept statement and/or plan or refer the request to the Planning Commission. (Ord. 80-131)

14-3-1311: DEVELOPMENT PLAN:

- A. Contents. Prior to the issuance of a building permit within a PBC-1 zone, an approved development plan for the entire PBC-1 must be on file with the City Planning Department, showing:

1. The location, size, height of all free-standing light standards.
2. A typical elevation and detail of any required fences, walls or other screening devices.
3. A landscaping plan for all required landscaping in the PBC-1 development. Must conform to Article 10 concerning landscaping.
4. Height of all buildings.
5. The location of each general type of use in the development.
6. The location, height and proposed square footage of all exterior signs. (see Article 9 of this Chapter)

- B. Approval. The applicant shall submit the development plan to the City Planning Department for review. The Planning Department shall review the submittal for completeness and notify the applicant of any deficiencies. Once a complete submittal is received, the Planning Department shall review the plan and submit a written copy of the findings to the applicant within fifteen (15) working days after the complete submittal has been made.

1. The Planning Department may approve the development plan and recommend the issuance of a building permit only if said plan is in conformance with the purpose, regulations and requirements of this Part 13. Any deviation (waiver requests) from the strict interpretation of this Chapter shall first be approved by the City Planning Commission.

2. Both the applicant and the City Planning Department have the option of submitting any

- B,2) plan to the City Planning Commission as an alternative to the Department review process.

- C. Amendments. Shall be processed in the same manner as the original development plan. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 14 PBC-2 - PLANNED BUSINESS CENTER

SECTION:

- 14-3-1401: Description and Purpose
- 14-3-1402: Where Established
- 14-3-1403: Size of District
- 14-3-1404: Zone Control Statement
- 14-3-1405: Use Restrictions
- 14-3-1406: Permitted Uses
- 14-3-1407: Conditional Uses
- 14-3-1408: Development Regulations (PBC-2)
- 14-3-1409: Concept Statements, Plans
- 14-3-1410: Development Plan

14-3-1401: DESCRIPTION AND PURPOSE: The PBC-2 zone district is intended to create, preserve and enhance areas with a wide range of retail sales and service establishments serving both long and short term needs that have the greatest possible concentration of probable business activity. This district will typically occur near intersections of major arterials. The market that supports this district are groups of communities or the entire region. (Ord. 80-131)

14-3-1402: WHERE ESTABLISHED:

- A. A PBC-2 may be established on any tract of land which meets the requirements of this Part 14, and which is held in single ownership or is under unified control. Should ownership or control become diversified after proceedings hereunder are commenced, the regulations set forth in this Part 14 shall continue to apply to the whole PBC-2 tract as a unit, and diversification of ownership shall not be deemed a valid basis or justification for a variance or an amendment to a previously-approved development plan. All development in a PBC-2 shall be in conformance with an approved development plan.
- B. The person seeking to establish a PBC-2 shall establish the following requirements to the

- B) satisfaction of the Planning Commission and the City Council, or to the City Council on appeal:

1. That the site location of the PBC-2 has a reasonable relationship to the established major traffic thoroughfare plan of the City and the official land use plan of the City, and that the site has direct access to a public right of way.

2. That the proposed PBC-2 when considered in relation to adjacent zoning will not create strip commercial zoning.

3. That the proposed PBC-2 will not overload existing or planned utility lines or drainage ways. Reports from the Department of Utilities and Department of Public Works shall be prima facie evidence of the existence or nonexistence of such overload.

4. That the proposed PBC-2 will not overload nearby traffic thoroughfares or street intersections. Reports from the Traffic Engineer shall be prima facie evidence of the existence or nonexistence of such overload.

5. That the proposed PBC-2 will conform with the purpose of this Chapter. (Ord. 76-179; Ord. 80-131; 1968 Code § 14-18)

14-3-1403: SIZE OF DISTRICT: Minimum, five (5) acres. (Ord. 76-179; Ord. 80-131; 1968 Code § 14-18)

14-3-1404: ZONE CONTROL STATEMENT: Simultaneously with final passage of the ordinance establishing the PBC-2 zone, the landowner(s) shall cause to be recorded with the Clerk and Recorder of El Paso County the following statement:

"PBC-2 ZONE CONTROL

The following described property located at

 (address) (fill in property description)

is zoned PBC-2 in accordance with the Code of the City of Colorado Springs. Such zone requires a development plan and unified control over elements of the plan and certain areas, as set forth in the plan, are subject to common public usage." (Ord. 76-179; Ord. 80-131; 1968 Code § 14-18)

14-3-1405: USE RESTRICTIONS:

- A. In a PBC-2 zone no uses shall be noxious or offensive by reason of the emission of dust, odor, light, smoke, gas, fumes, noise or vibrations. Air, water and noise pollution shall not exceed Federal, State and local standards.
- B. All uses shall be conducted within enclosed buildings except as otherwise indicated in this Section.
- C. No building or land shall be used and no building shall be erected, structurally altered or enlarged which is intended for other than the permitted uses or conditional uses listed in this Part 14. (Ord. 80-131)

14-3-1406: PERMITTED USES:¹ All permitted uses in the PBC-1 zone district. (Ord. 80-131)

14-3-1407: CONDITIONAL USES:

- 1. Dwellings.
- 2. Outdoor recreational facilities, either public or private excluding drive-in theatres.
- 3. Adult uses; provided, however, such adult use shall not be within five hundred feet (500') of any residential zoning district, a church or an educational institution as defined in this Chapter (whether within or without the City) and such adult use shall not be

within one thousand feet (1,000') of any other adult use. A variance of the foregoing restrictions may be applied for in accordance with this Chapter.

4. Religious Institutions.

5. Car wash facility which is not conducted within an enclosed building.

6. Human service establishment.**7. Day care center:**

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway. (Ord. 80-131; Ord. 81-102; Ord. 85-43; Ord. 86-119; 1968 Code § 14-18)

14-3-1408: DEVELOPMENT REGULATIONS (PBC-2):

- A. Height. Forty five feet (45'), including roof top mechanical structures.
- B. Building Setbacks.
 - 1. The building setback shall be at least fifty feet (50') from any adjoining public street right of way. The building setback may be reduced to a minimum of thirty feet (30') if the entire setback area from property line to building is landscaped where the setback reduction occurs.
 - 2. The minimum building setback from any other perimeter boundary of the PBC-2 zone shall be twenty five feet (25'). Such twenty five foot (25') setback is not required from any internal lot line within the PBC-2.
- C. Landscape Requirements. See Section 14-8-104 for parking lot landscaping requirements and Article 10 for other landscape requirements.
- D. (Rep. by Ord. 86-124)

¹ See also Section 14-11-103 of this Code.

- E. Landscaping. Landscaping will be reviewed primarily on the basis of:

(a) Its contribution to the overall enhancement of the center and its parts.

(b) Its contribution to the sense of unity of the center.

(c) Its use of plant materials to provide appropriate relief from the inanimate nature of the rest of the center.

(d) The appropriateness of plant materials for this area and for the intended purpose. (Ord. 76-179; Ord. 80-131; Ord. 81-102; Ord. 86-39; Ord. 86-124; Ord. 86-177; 1968 Code § 14-18)

14-3-1409: CONCEPT STATEMENTS, PLANS:

A. Concept Statement. Any requested zone change to PBC-2 shall be accompanied with a concept statement which includes a description of the applicant's intent, general uses, access, range of square footage, free-standing buildings or one or more larger buildings, and how the property will relate to the surrounding properties.

B. Concept Plan. A concept plan is a visual representation of the concept statement. Although the concept plan is not a requirement of submittal with the zone change request, it is encouraged in order to provide needed information that may support the request.

- C. Amendment to Concept Statement and/or Concept Plan. Written request must be made to the City Planning Department for a change to the approved concept statement and/or plan. The City Planning Director may approve the amendment to the concept statement and/or plan or refer the request to the City Planning Commission.
- D. Phased Plan. Based on the approved concept plan the owner or owners of a PBC-2 may submit a phased plan of development on the entire PBC-2. The phases shall be a logical division of the PBC-2 based on the approved concept statement and/or plan. The phased plan shall be submitted to the City Planning Department for approval. (Ord. 80-131)

14-3-1410: DEVELOPMENT PLAN:

- A. Contents. Prior to the issuance of a building permit within a PBC-2 zone, an approved development plan must be on file with the City Planning Department, showing:
 - 1. The location, size, height of all free-standing light standards.
 - 2. A typical elevation and detail of any required fences, walls or other screening devices.
 - 3. A landscaping plan for all required landscaping in the PBC-2 development must conform to Article 10 concerning landscaping.
 - 4. Height of all buildings.
 - 5. The location, each general type of use in the development.
 - 6. The location, height and proposed square footage of all exterior signs. (see Article 9 of this Chapter).
- B. Review, Approval. The applicant shall submit the development plan to the Planning Department for review. The Planning Department shall review the submittal for completeness and notify the applicant of any deficiencies. Once a complete submittal is received, the Planning Department shall review the plan and submit a written copy of the findings to the applicant within fifteen (15) working days after the complete submittal has been made.
 - 1. The Planning Department may approve the development plan and recommend the issuance of a building permit only if said plan is in conformance with the purpose, regulations and requirements of this Part 14. Any deviation (waiver requests) from the strict interpretation of this Chapter shall first be approved by the Planning Commission.
 - 2. Both the applicant and the City Planning Department have the option of submitting any plan to the City Planning Commission as an alternative to the Department review process.
- C. Amendments. Shall be processed in the same manner as the original development plan. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 15 C-5 - INTERMEDIATE BUSINESS

SECTION:

- 14-3-1501: Description and Purpose
- 14-3-1502: Minimum Requirements
- 14-3-1503: Principal Permitted Uses
- 14-3-1504: Conditional Uses
- 14-3-1505: Other Requirements

14-3-1501: DESCRIPTION AND PURPOSE: The C-5 Intermediate Business zone provides for general commercial uses that are of moderate intensity. The emphasis of the zone is placed on individual sites which in some cases will be located near established residential zoning. (Ord. 80-131)

14-3-1502: MINIMUM REQUIREMENTS:

A. Minimum yard dimensions:

Front Yard. Twenty feet (20').

Side Yard. None except when adjacent to a residential zone. Where adjacent to residential zone the side yard will be the same as the residential zone.

Rear Yard. None except when adjacent to residential zone. Where adjacent to a residential zone, the rear yard shall be twenty feet (20').

NOTE: These minimum yard dimensions (minimum building setbacks) may need to be greater to comply with landscape requirements, such as landscaped setback and buffer requirements. See Article 10 for landscape requirements and Section 14-8-104 for parking lot landscaping requirements.

- B. Maximum height of principal building or buildings including mechanical. Forty five feet (45').** (Ord. 80-131; Ord. 81-102; Ord. 86-39; Ord. 86-177; 1968 Code § 14-38)

14-3-1503: PRINCIPAL PERMITTED USES:¹

1. Ambulance service business.

2. Art or antique shop.
3. Art or photographic studio.
4. Assembly of appliances from previously prepared parts (retail sales on premises only).
5. Bakery or pastry shop including retail.
6. Bank or other financial or lending institutions.
7. Barber or beauty shop.
8. On premises liquor establishments. Such establishments shall be in compliance with State and City liquor codes. Such establishment's property line shall be at least two hundred feet (200') from the nearest setback line of any residentially zoned property. The distance requirement shall not apply if the residentially zoned property is separated from the property of the establishment by a major street (as defined in the City's Subdivision Code, Chapter 15, Article 3, Part 7) or if the residentially zoned property is City-owned. For purposes of this subsection, the distance requirement shall be measured as a straight line. The distance requirements of this subsection shall not apply to an on premises liquor establishment which is also a restaurant if the bar area does not constitute more than thirty five percent (35%) of the floor area.
9. Blueprinting or photostating.
10. Book or stationery store, retail only.
11. Business park.
12. Camera shop (service, supplies or equipment).
13. Candy or confectionery store.
14. Carpenter or woodworking shop.
15. Clinic, medical or dental.
16. Clothing or ready-to-wear store.
17. Club or lodge.
18. Dancing academy.

¹ See also Section 14-11-103 of this Code.

19. Delicatessen.
20. Department store.
21. Dressmaking, tailoring or alterations.
22. Drugstore.
23. Dry cleaning establishment using only nonflammable materials and not employing more than four (4) persons in addition to one owner-manager on the premises.
24. Dry cleaning or laundry collection office only.
25. Electric repair, radio, jewelry repair or shoe repair shop.
26. Employment agency.
27. Florist shop.
28. Funeral parlor.
29. Furniture, interior decorating or upholstery shop.
30. Garage, public parking.
31. Gift shop.
32. Grocery or fruit and produce store.
33. Hardware, electrical appliance or music store.
34. Hobby or toy store.
35. Home improvement center (excluding outdoor storage).
36. Hotel.
37. (Rep. by Ord. 86-119)
38. Jewelry store, sales and service.
39. Laboratory.
40. Launderettes (self-service only).
41. Liquor store.
42. Library or museum.
43. Locksmith shop.
44. Meat, fish or fowl market.
45. Newsstand.
46. Office.
47. Paint or wallpaper store.
48. Parking lot.
49. Printing, publishing or reproduction establishment.
50. Private school.
51. Religious institution.
52. Restaurant or cafe.
53. Service station, alone or with car wash.
54. Sewing machine or vacuum cleaner sales establishment.
55. Shoe sales shop.
56. Sporting goods store.
57. Small animal hospital (soundproofed and no outside runs).
58. Tobacco shops.
59. Theater (not including drive-in).
60. Any similar lawful use which is not objectionable to nearby property by reason of odor, dust, smoke, fumes, gas, noise or vibration or is not hazardous to the health and property of the surrounding area through danger of fire or explosion. Any use not specifically listed may be approved by the City Planning Director in writing or shall be referred to the City Planning Commission at the next regularly scheduled meeting for approval or denial. The decision will be based on the wording "any similar use" as the requested use compares to the established list of principal permitted uses, or conditional uses.
61. Game rooms, provided that they are located in a shopping center. For the purposes of this paragraph, a shopping center shall mean four (4) or more attached buildings each containing a separate business.
62. Social service center. (Ord. 80-131; Ord. 81-149; Ord. 82-47; Ord. 86-119; Ord. 86-229; 1968 Code § 14-38)

14-3-1504: CONDITIONAL USES:

1. Automobile or truck sales rooms and trailer or used car sales lots. Any lights used to illuminate said lots shall be so arranged as to reflect light away from any adjoining premises in a residential district. The use of flood lights, except those used for protection of property, shall be used only until ten o'clock (10:00) at night.
2. Car wash.
3. Drive-in restaurants, including curb service.
4. Repair garages, provided the nearest point of the building is more than one hundred feet (100') from the boundary of a residential district, and provided all work is done within the building.
5. Mini-warehouses for the general public.
6. Mixed uses (residential - commercial) all standards as per the C-5 zone.
7. All uses permitted in the R-5 multi-family zone. (Residential uses shall comply with all regulations as set forth in the R-5 district).
8. Human service establishment.
9. Day care center:
 - (a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.
 - (b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.
10. Nursing home.
11. Hospital. (Ord. 80-131; Ord. 86-119)

14-3-1505: OTHER REQUIREMENTS: Mixed uses (i.e., residential - commercial) are permitted only after submittal and approval of a development plan by the City Planning Department. (See Article 5, Development Plans). (Ord. 80-131; Ord. 86-39)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 16 C-6 - GENERAL BUSINESS

SECTION:

14-3-1601: Description and Purpose
 14-3-1602: Minimum Requirements
 14-3-1603: Principal Permitted Uses
 14-3-1604: Conditional Uses
 14-3-1605: Accessory Uses

14-3-1601: DESCRIPTION AND PURPOSE: The C-6 General Business zone provides for general commercial uses that are typically high volume traffic generators and are generally dependent on more than the immediate neighborhood for their market area. (Ord. 80-131)

14-3-1602: MINIMUM REQUIREMENTS:

- A. Minimum yard dimensions. None, unless necessary to comply with landscape requirements, such as landscaped setback and buffer requirements. See Article 10 for general landscape requirements and Section 14-8-104 for parking lot landscaping requirements.
- B. Maximum height of principal building. Fifty feet (50'). (Ord. 80-131; Ord. 86-39; Ord. 86-177; 1968 Code § 14-39)

14-3-1603: PRINCIPAL PERMITTED USES:¹

- 1. Any principal permitted use in the C-5 zone.
- 2. Car wash.
- 3. Amusement enterprises; roller coasters, carousel, penny arcade, etc.
- 4. Auto or trailer sales business.
- 5. Bakery (commercial or wholesale).
- 6. Bird store or taxidermist shop.
- 7. Bottling works.
- 8. Bus or taxi service.

- 9. Canvas products fabrication or sales establishment.
- 10. Drive-in business.
- 11. Feed or seed store.
- 12. Food processing establishment (retail on premises).
- 13. Garage repair.
- 14. Glass fabrication and installation establishment.
- 15. Home improvement center - outdoor storage allowed.
- 16. Hospital.
- 17. Jewelry manufacturing.
- 18. Laundry, cleaning or dyeing establishment.
- 19. Metal fabrication (light) e.g., sheet metal, ducts, gutters.
- 20. Mini-Warehouses for the general public.
- 21. New or used car lot.
- 22. Optical or scientific instrument manufacturing.
- 23. Pawn shop, secondhand or auction store.
- 24. Plumbing shop.
- 25. Sign or sign painting shop.
- 26. Wearing apparel, fabrication and processing of.
- 27. Wholesale business, storage building, warehouse (except flammable materials).
- 28. Any similar lawful use which is not objectionable to nearby property by reason of odor, dust, smoke, fumes, gas, noise or vibration or is not hazardous to the health and property of the surrounding area through danger of fire or explosion.

Any use not specifically listed may be approved by the Planning Director in writing or shall be referred to

¹ See also Section 14-11-103 of this Code.

28) the Planning Commission at the next regularly scheduled meeting for approval or denial. The decision will be based on the wording "any similar use" as the requested use compares to the established list of principal permitted uses or conditional uses.

29. On premises liquor establishments. Such establishments shall be in compliance with State and City liquor codes. Such establishment's property line shall be at least two hundred feet (200') from the nearest setback line of any residentially zoned property. The distance requirement shall not apply if the residentially zoned property is separated from the property of the establishment by a major street (as defined in the City's Subdivision Code, Chapter 15, Article 3, Part 7) or if the residentially zoned property is City-owned. For purposes of this subsection, the distance requirement shall be measured as a straight line. The distance requirements of this subsection shall not apply to an on premises liquor establishment which is also a restaurant if the bar area does not constitute more than thirty five percent (35%) of the floor area. (Ord. 80-131; Ord. 81-149; Ord. 82-115; Ord. 82-247; Ord. 86-119; 1968 Code § 14-39)

14-3-1604: **CONDITIONAL USES:**

1. Residential dwellings (must comply with all regulations for residences in the R-5 residential zone, including yard regulations, lot coverage and lot density).

2. Mixed uses (i.e., residential - commercial) setbacks and other criteria to be established based on the development plan.

3. Kennel.

4. Human service establishment.

5. Day care center:

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.

6. Nursing home. (Ord. 80-131; Ord. 86-119)

14-3-1605: **ACCESSORY USES:**

1. Outside storage, provided such storage shall be enclosed on all sides by a screening wall or solid fence at least six feet (6') in height. In no event shall materials be stacked or stored higher or to exceed the height of the screening wall or fence. (Ord. 81-102)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 17 PIP-1 - PLANNED INDUSTRIAL PARK

SECTION:

- 14-3-1701: Description and Purpose
- 14-3-1702: Where Established
- 14-3-1703: Size of District
- 14-3-1704: Site Location
- 14-3-1705: Application for Rezoning
- 14-3-1706: Modification of Regulations
- 14-3-1707: Concept Statement, Plans
- 14-3-1708: Development Plan
- 14-3-1709: Use Regulations
- 14-3-1710: Principal Permitted Uses
- 14-3-1711: Accessory Uses
- 14-3-1712: Conditional Uses
- 14-3-1713: Performance Standards
- 14-3-1714: Dimensional Standards

14-3-1701: DESCRIPTION AND PURPOSE: This district is established for the purpose of providing for a limited group of professional, administrative, research and manufacturing uses; the operations of which are quiet and clean to insure the creation and maintenance of an environment which will serve the mutual interest of the community as a whole, as well as the adjacent residential areas and the occupants of the industrial park in particular. The PIP-1 district is the smaller of the two (2) planned industrial park districts. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1702: WHERE ESTABLISHED: A PIP-1 district may be established upon any tract of land in any district held by a single owner or under unified control; provided a development plan is submitted in compliance with the provisions of this Section, and from the concept plan submitted, the City Planning Commission finds that the proposed planned industrial park district is in keeping with the development plan of the area and will not adversely affect surrounding properties. (Ord. 80-131; 1968 Code 14-42.7)

14-3-1703: SIZE OF DISTRICT: The minimum area of a PIP-1 district shall be ten (10) acres. (Ord. 80-131; 1968 Code 14-42.7)

14-3-1704: SITE LOCATION: The selection of an area of a PIP-1 district should be located strategically on lands that are suitable for industrial development and shall have an acceptable relationship to the established major traffic thoroughfare system and future land use plan. (Ord. 80-131; 1968 Code 14-42.7)

14-3-1705: APPLICATION FOR REZONING: The proponents of a PIP-1 district shall make written application to the Planning Commission for the rezoning of property for a PIP-1 district. (The application shall also include submittal of a concept statement.) (Ord. 80-131; 1968 Code 14-42.7)

14-3-1706: MODIFICATION OF REGULATIONS: The regulations governing the height, open area, setback, off-street parking-loading and maneuvering space may be modified by the Planning Commission before a PIP-1 district is established so the property in question may be developed in a reasonable manner and at the same time will not be detrimental to the purposes of this Chapter. (Ord. 80-131; 1968 Code 14-42.7)

14-3-1707: CONCEPT STATEMENT, PLANS:

- A. Concept Statement. Any requested zone change to PIP-1 shall be accompanied with a concept statement which includes a description of the applicant's intent, general uses, orientation, access, range of square footage, free-standing buildings or one or more larger buildings, and how the property will relate to the surrounding properties.
- B. Concept Plan. A concept plan is a visual representation of the concept statement.

- B) Although the concept plan is not a requirement of submittal with the zone change request, it is encouraged in order to provide needed information that may support the request.
- C. Amendments. Written request must be made to the City Planning Department for a change to the approved concept statement and/or plan. The City Planning Director may approve the amendment to the concept statement and/or plan or refer the request to the City Planning Commission. (Ord. 80-131)

14-3-1708: **DEVELOPMENT PLAN:**

- A. Submission, Review. Prior to the issuance of a building permit within a PIP-1 zone, an approved development plan for the entire PIP-1 or by phases as based on an approved concept plan, must be on file with the City Planning Department. The City Planning Department may approve the development plans submitted and authorize the issuance of building permits only if said plan is in conformity with the regulations as set forth in this Part 17. When the development plan is approved by the City Planning Department, the recommendation shall include all conditions for said approval.
- B. Contents. The development plan will include all information as listed in Article 5 (Development Plans), plus the following:
 1. Show the location, size, height of all free-standing light standards.
 2. Show a typical elevation and detail of any required fences, walls or other screening devices.
 3. Include a landscaping plan for required landscaping in the PIP-1 development. See Article 10 for general landscape requirements and Section 14-8-104 for parking lot landscaping requirements.
 4. Show height of all buildings.
 5. Indicate, by location, each general type of use in the development.
 6. Show the location, height and proposed square footage of all exterior signs.

- C. Amendments. Amendments shall be submitted for approval by the City Planning Department. The Planning Department shall review the submittal for completeness and notify the applicant of any deficiencies. Once a complete submittal is received, the Planning Department shall review the plan and submit a written copy of the findings to the applicant within fifteen (15) working days after the complete submittal has been made. (Ord. 80-131; Ord. 86-39; Ord. 86-177; 1968 Code 14-42.7)

14-3-1709: **USE REGULATIONS:** Since most PIP-1 districts will be located in close proximity to residential neighborhoods, it is necessary that development and performance standards be high and that all manufacturing, processing or assembly of materials and products be carried on in a manner not injurious or offensive to the occupants of surrounding properties. Therefore, no building or land shall be used and no building shall be erected, structurally altered, or enlarged which is intended or designed for other than the following uses, provided such uses are in full compliance with the performance standards established in the PIP-1 zone. (Ord. 80-131; 1968 Code 14-42.7)

14-3-1710: **PRINCIPAL PERMITTED USES:**

1. Administrative and professional offices.
2. Banks and financial institutions.
3. Manufacture of cameras and other photographic equipment and supplies.
4. Manufacture of ceramic products - such as pottery and small glazed tile.
5. Manufacture of dentures and drugs.
6. Manufacture of ink mixing and packaging and inked ribbons.
7. Manufacture of jewelry.
8. Laboratories - medical, dental, research, experimental and testing.
9. Manufacture of leather products, including shoes and machine belting (excluding tanning).

10. Manufacture of luggage.
11. Manufacture and assembly of electrical and electronic products.
12. Manufacture of musical instruments.
13. Manufacture of orthopedic and medical appliances, such as artificial limbs, braces, supports and stretchers.
14. Manufacture of plastic products, but not including the processing of the raw materials.
15. Manufacture of precision instruments - such as optical, medical and drafting.
16. Printing, newspaper publishing and binding, including engraving and photoengraving.
17. Recreational buildings and membership clubs designed primarily to serve employees of other principal permitted uses in the industrial park in which the recreational buildings and membership clubs are located.
18. Manufacture of sporting and athletic equipment, such as balls, bats, baskets, gloves, racquets and rods.
19. Manufacture of toys.
20. Any other manufacturing establishments that in the opinion of the Planning Director are similar in use to the type listed above. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1711: ACCESSORY USES:

1. Retail sales and services operated on the same property (lot) and in conjunction with uses specifically allowed in this district. Retail sales in the PIP-1 must be conducted within the same building as the principal permitted use. Retail sales shall not occupy more than twenty percent (20%) of the gross floor area of the principal building. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1712: CONDITIONAL USES:

1. Restaurants - (only those eating establishments

where food and beverages are only ordered, served and consumed at a table or counter on the premises).

2. Proprietary schools.
3. Building contractor's office. (Ord. 80-131)

14-3-1713: PERFORMANCE STANDARDS: No use shall be established, maintained or conducted in any PIP-1 district that will cause any:

- A. Emission of smoke, fumes, gas, dust, odor or any other atmospheric pollutant detectable beyond the boundaries of the immediate site.
- B. Objectionable noise beyond the boundaries of the immediate site.
- C. Glare or vibration beyond the boundaries of the immediate site.
- D. Physical hazard by reason of fire, radiation, explosion or similar cause, to the property in the same or surrounding district. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1714: DIMENSIONAL STANDARDS:

- A. Minimum lot size. One acre.
- B. Minimum yard dimensions.

Front Yard. Fifty feet (50').

Side Yard. Thirty feet (30').

Rear Yard. Fifty feet (50').
- C. Allowed reduction in building setback through the provision of landscaped area:

The minimum front yard dimension (building setback) may be reduced to a minimum of thirty feet (30') if the entire setback area from property line to building is landscaped where the setback occurs.
- D. Minimum distance of structures from an existing residential zone. One hundred feet (100').

- E. Maximum percentage of the lot to be covered by buildings. Thirty percent (30%).
- F. Maximum height of the buildings. Forty five feet (45'). (Ord. 80-131; Ord. 86-39; 1968 Code § 1442.7)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 18 PIP-2 - PLANNED INDUSTRIAL PARK

SECTION:

- 14-3-1801: Description and Purpose
- 14-3-1802: Where Established
- 14-3-1803: Size of District
- 14-3-1804: Site Location
- 14-3-1805: Application for Rezoning
- 14-3-1806: Modification of Regulations
- 14-3-1807: Concept Statement, Plans
- 14-3-1808: Development Plan
- 14-3-1809: Use Regulations
- 14-3-1810: Principal Permitted Uses
- 14-3-1811: Accessory Uses
- 14-3-1812: Conditional Uses
- 14-3-1813: Performance Standards
- 14-3-1814: Dimensional Standards

14-3-1801: DESCRIPTION AND PURPOSE: This district is established for the purpose of providing for a limited group of industrial and manufacturing uses; the operations of which will ensure the creation and maintenance of an environment which will serve the mutual interest of the community as a whole, as well as any adjacent residential areas and the occupants of the industrial park area in particular. The PIP-2 district is the larger of the two (2) planned industrial park districts. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1802: WHERE ESTABLISHED: A PIP-2 district may be established upon any tract of land in any district held by a single owner or under unified control; provided a development plan is submitted in compliance with the provisions of this Section, and from the concept plan submitted, the Planning Commission finds that the proposed planned industrial park district is keeping with the development plan of the area and will not adversely affect surrounding properties. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1803: SIZE OF DISTRICT: The minimum area of a PIP-2 district shall be twenty (20) acres. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1804: SITE LOCATION: The selection of an area for a PIP-2 district should be located strategically on lands that are suitable for industrial development or too closely to develop for other purposes, and shall have an acceptable relationship to the established major traffic thoroughfare system and future land use plan. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1805: APPLICATION FOR REZONING: The proponents of a PIP-2 district shall make written application to the Planning Commission for the rezoning of the property for a PIP-2 district (the application shall also include submittal of a concept statement). (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1806: MODIFICATION OF REGULATIONS:
The regulations governing the height, open area, setback, off-street parking-loading and maneuvering space may be modified by the Planning Commission before a PIP-2 district is established so the property in question may be developed in a reasonable manner and at the same time will not be detrimental to the public welfare and interest of the City. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1807: CONCEPT STATEMENT, PLANS:

- A. Concept Statement. Any requested zone change to PIP-2 shall be accompanied with a concept statement which includes a description of the applicant's intent, general use, orientation, access, range of square footage, free-standing buildings or one or more larger buildings, and how the property will relate to the surrounding properties.

- B. Concept Plan. A concept plan is a visual representation of the concept statement. Although the concept plan is not a requirement of submittal with the zone change request, it is encouraged in order to provide needed information that may support the request.
- C. Amendments to Concept Statement and/or Concept Plan. Written request must be made to the City Planning Department for a change to the approved concept statement and/or plan. The City Planning Director may approve the amendment to the concept statement and/or plan or refer the request to the City Planning Commission. (Ord. 80-131)

14-3-1808: DEVELOPMENT PLAN:

- A. Submission, Review. Prior to the issuance of a building permit within a PIP-2 zone, an approved development plan for the entire PIP-2 or by phases, based on an approved phasing plan, must be on file with the City Planning Department. The City Planning Department may approve the development plans submitted and authorize the issuance of the building permits only if said plan is in conformity with the regulations as set forth in this Part 18. When the development plan is approved by the City Planning Department, the recommendation shall include all conditions for said approval.
- B. Contents. The development plan will include all information as listed in Article 5, Development Plans, plus the following:
 - 1. Show the location, size, height of all free-standing light standards.
 - 2. Show a typical elevation and detail of any required fences, walls or other screening devices.
 - 3. Include a landscaping plan for required landscaping in the PIP-2 development. See Article 10 for general landscaping requirements and Section 14-8-104 for parking lot landscaping requirements.
 - 4. Show height of all buildings.
 - 5. Indicate, by location, each general type of use in the development.

- B) 6. Show the location, height and proposed square footage of all exterior signs.
- C. Amendments to Concept Plan, Phased Plan and Development Plan. Shall be submitted for approval by the City Planning Department. The Planning Department shall review the submittal for completeness and notify the applicant of any deficiencies. Once a complete submittal is received, the Planning Department shall review the plan and submit a written copy of the findings to the applicant within fifteen (15) working days after the complete submittal has been made. (Ord. 80-131; Ord. 86-39; Ord. 86-177; 1968 Code § 14-42.7)

14-3-1809: USE REGULATIONS: Since some PIP-2 districts will be located in close proximity to residential neighborhoods, it is necessary that development and performance standards be high and that all manufacturing, processing or assembly of materials and products be carried on in a manner not injurious or offensive to the occupants of surrounding properties. Therefore, no building or land shall be used and no building shall be erected, structurally altered or enlarged which is intended or designated for other than the following uses, provided such uses are in full compliance with the performance standards established in the PIP-2 zone. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1810: PRINCIPAL PERMITTED USES:

- 1. Any use permitted in PIP-1 district.
- 2. Apparel (clothing) and other products manufactured from textiles.
- 3. Art needlework and hand weaving.
- 4. Assembly plants.
- 5. Bakeries (wholesale only).
- 6. Bottling works.
- 7. Brushes and brooms.
- 8. Carpet and rug cleaning.
- 9. Creameries and dairies.

10. Commercial laundries.
11. Manufacture of ice, dry and natural.
12. Locker plants.
13. Meat packing and processing but not including the slaughtering of animals.
14. Metal finishing, including plating, polishing, cleaning and rustproofing.
15. Metal stamping and extrusion of small products such as pins and needles, razor blades, bottle caps, buttons and kitchen utensils.
16. Outdoor advertising signs.
17. Packing and crating.
18. Manufacture of paper products, small, such as envelopes, stationery, bags, boxes and wallpaper printing.
19. Manufacture of perfumes and cosmetics.
20. Tools and die shop.
21. Truck, tractor, trailer, bus storage yards or motor freight terminal.
22. Silverware, plate and sterling.
23. Soap and detergents, packaging only.
24. Warehousing and storage - including mini-warehouses.
25. Manufacture of wood products, such as furniture, boxes, crates, baskets, cabinets and like products.
26. Upholstering (bulk), including mattress manufacturing, rebuilding and renovating.
27. Any other manufacturing establishment that in the opinion of the City Planning Director is similar in use to the types listed above.
28. Building contractor's office. (Ord. 80-131; Ord. 83-65; 1968 Code § 14-42.7)

14-3-1811: ACCESSORY USES:

1. Retail sales and services operated on the same property (lot) and in conjunction with uses specifically

allowed in this district. Retail sales in the PIP-2 may be conducted outside the principal building, but the combined sales area of both inside and outside the principal building shall not occupy more than thirty percent (30%) of the gross floor area of the principal building.

2. Storage of materials and supplies. If permitted outside as a result of development plan review, such storage shall be enclosed on all sides by a screening wall or solid fence at least six feet (6') in height. In no event shall materials be stacked or stored higher or to exceed the height of the screening wall or fence. (Ord. 80-131; Ord. 81-102; 1968 Code § 14-42.7)

14-3-1812: CONDITIONAL USES:

1. Restaurants (only those eating establishments where food and beverages are ordered, served and consumed at a table or counter on the premises).
2. Proprietary schools. (Ord. 80-131; Ord. 83-65)

14-3-1813: PERFORMANCE STANDARDS: No use shall be established, maintained or conducted in any PIP-2 district that will cause any:

- A. Emission of smoke, fumes, gas, dust, odor or any other atmospheric pollutant detectable beyond the boundaries of the immediate site.
- B. Objectionable noise beyond the boundaries of the immediate site.
- C. Glare or vibration beyond the boundaries of the immediate site.
- D. Physical hazard by reason of fire, radiation, explosion or similar cause, to the property in the same or surrounding district. (Ord. 80-131; 1968 Code § 14-42.7)

14-3-1814: DIMENSION STANDARDS:

- A. Minimum lot size. One-half (½) acre.
- B. Minimum yard dimensions.
 - Front Yard. Twenty five feet (25').
 - Side Yard. Ten feet (10').
 - Rear Yard. Twenty five feet (25').

- C. Minimum distance of structures from an existing residential zone. One hundred feet (100').
- D. Maximum percentage of the lot to be covered by buildings. Forty percent (40%).
- E. Maximum height of buildings. Forty five feet (45'). (Ord. 80-131; Ord. 86-39; 1968 Code § 14-42.7)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 19 M-1 - LIGHT INDUSTRIAL

SECTION:

- 14-3-1901: Description and Purpose
- 14-3-1902: Minimum Requirements
- 14-3-1903: Principal Permitted Uses
- 14-3-1904: Conditional Uses
- 14-3-1905: Off-Street Loading (Rep. by Ord. 86-124)
- 14-3-1906: Other Requirements

14-3-1901: **DESCRIPTION AND PURPOSE:** The M-1 zone is to accommodate light industrial uses and commercial uses that are complimentary and compatible to the industrial uses. (Ord. 80-131)

14-3-1902: **MINIMUM REQUIREMENTS:**

A. Maximum height of principal buidings. Forty feet (40').

B. Minimum yard dimensions.

Front Yard. Twenty feet (20').

Side Yard. None, except when adjacent to a residential zone; then shall comply with same as the residential zone.

Rear Yard. Ten feet (10').

NOTE: These minimum yard dimensions (minimum building setbacks) may need to be greater to comply with landscape requirements, such as landscaped setback and buffer requirements. See Article 10 for general landscaping requirements and Section 14-8-104 for parking lot landscaping requirements. (Ord. 80-131; Ord. 86-39; Ord. 86-177; 1968 Code § 14-40)

14-3-1903: **PRINCIPAL PERMITTED USES:**

1. Automobile, truck and airplane assembling and remodeling.

2. Building materials sales yard and storage building, mill working establishment, if part of sale yard, home improvement center.

3. Carpenter or woodworking shop.

4. Casting, light weight and nonferrous metals (no noxious fumes).

5. Enameling, plating, lacquering, galvanizing of metals.

6. Feed and seed processing and bulk storage.

7. Food processing, wholesale (excludes meat, fish, vinegar, yeast, fat).

8. Freight yard and truck terminals.

9. Glass manufacture.

10. Home improvement center.

11. Lumber or coal yard.

12. Machine shop or blacksmith shop.

13. Manufacture of dry and natural ice.

14. Meat processing (excludes slaughtering, curing and smoking).

15. Metal fabrication, heavy (forging, casting, rolling, structural iron and steel, wire products, rod drawing, steel doors, sash, pipes and boilers).

16. Mills (grist and flour).

17. Printing - Industrial (wallpaper, etc.).

18. Pulp, paper, cardboard and building board manufacture.

19. Rag, bag and carpet cleaning establishment.

20. Stone and monument works.

21. Synthetics and plastics manufacture.

22. Veterinary, dog-cat hospitals, kennels.

23. Vitreous wire, pottery and porcelain manufacture.

24. Warehouses.

25. Retail sales and services operated on the same property and in conjunction with uses specifically allowed in this district.

26. Any business or commercial establishment which provides supplies and/or services primarily to industrial and manufacturing customers.

27. Any similar lawful use which is not objectionable to nearby property by reason of odor, dust, smoke, fumes, gas, noise or vibration or is not hazardous to the health and property of the surrounding area through danger of fire or explosion.

Any use not specifically listed may be approved by the City Planning Director in writing or shall be referred to the City Planning Commission at the next regularly scheduled meeting for approval or denial. The decision will be based on the wording "any similar use" as the requested use compares to the established list of principal permitted uses or conditional uses. (Ord. 80-131; 1968 Code § 14-40)

14-3-1904: **CONDITIONAL USES:**

1. Ambulance service business.

2. Educational institutions.

3. Garbage service companies - terminals where vehicles used for the transport of garbage are stored or cleaned.

4. Heavy equipment, storage and maintenance.

5. Junk yards, scrap metals processing yards, automobile storage yards and automobile dismantling yards, provided the operation is carried on entirely within the building or yard which is enclosed on all sides by a wall or solid type fence at least six feet (6') high. Any salvage or other parts or any materials shall not be stored or kept in said yards at a level higher than the surrounding fence. Such yards shall be kept in good repair and provide appropriate maintenance at all times.

6. Libraries, museums and art galleries.

7. Restaurant, tavern and cafe.

8. Any use permitted in any commercial zone, which is deemed by the Council after recommendation of the City Planning Commission to be compatible with existing or projected industrial development in the area. (Ord. 80-131)

14-3-1905: **OFF-STREET LOADING:** (Rep. by Ord. 86-124)

14-3-1906: **OTHER REQUIREMENTS:**

A. Commercial or industrial buildings and their accessory buildings adjacent to a residential zone must comply with side yard and rear yard requirements of the residential zone. (Ord. 80-131; Ord. 85-43)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 20 M-2 - HEAVY INDUSTRIAL

SECTION:

- 14-3-2001: Description and Purpose
- 14-3-2002: Minimum Requirements
- 14-3-2003: Principal Permitted Uses
- 14-3-2004: Conditional Uses
- 14-3-2005: Off-Street Loading (Rep. by Ord. 86-124)
- 14-3-2006: Other Requirements

14-3-2001: DESCRIPTION AND PURPOSE: The M-2 zone district is intended for uses that are likely to have an extensive impact on the surrounding area. The M-2 zone is a heavy industrial zone and where possible shall be separated from residential districts by intervening, more restrictive zones. (Ord. 80-131)

14-3-2002: MINIMUM REQUIREMENTS:

- A. Maximum height of principal buildings. Eighty feet (80').
- B. Minimum yard dimensions. None, unless necessary to comply with landscape requirements such as landscaped setback and buffer requirements. See Article 10 for general landscape requirements and Section 14-8-104 for parking lot landscaping requirements. (Ord. 80-131; Ord. 86-39; Ord. 86-177; 1968 Code § 14-41)

14-3-2003: PRINCIPAL PERMITTED USES:

- 1. Any use permitted in the light industrial zone; provided, however, no new dwelling or the conversions of existing building to provide new dwelling units are permitted, except accessory buildings which are incidental to the use of the land.
- 2. Asphalt plant, batch plant.
- 3. Junk yards, scrap metals processing yards, automobile storage yards and dismantling yards, provided the operation is carried on entirely within the

building or yard which is enclosed on all sides by a wall or solid type fence at least six feet (6') high. Any salvage or other parts or any materials shall not be stored or kept in said yards at a level higher than the surrounding fence. Such yards shall be kept in good repair and provide appropriate maintenance at all times.

- 4. Boiler and tank works.
- 5. Brewery, distillery.
- 6. Brick, tile, terra cotta, cement block and cast stone manufacture.
- 7. Cement plant, central mixing.
- 8. Chemical manufacturing and storage.
- 9. Excelsior and fiber manufacture.
- 10. Felt manufacturing.
- 11. Gas storage.
- 12. Heavy equipment storage and maintenance yard.
- 13. Meat packing, slaughter house.
- 14. Storage, sorting, baling and processing of metal, wood, glass, paper, etc.
- 15. Vinegar and sauerkraut manufacture.
- 16. Wood pulling or scouring, manufacture of shoddy.
- 17. Tanning, curing or storing of hides.
- 18. Retail sales and services operated on the same property and in conjunction with uses specifically allowed in this district.
- 19. Any similar lawful use, which is not objectionable to nearby property by reasons of odor, dust, smoke, fumes, gas, noise or vibration or is not hazardous to the health and property of the surrounding area through danger of fire or explosion.

Any use not specifically listed may be approved by the City Planning Director in writing or shall be

referred to the City Planning Commission at the next regularly scheduled meeting for approval or denial. The decision will be based on the wording "any similar use" as the requested use compares to the established list of principal permitted uses, or conditional uses. (Ord. 80-131; 1968 Code § 14-41)

14-3-2004: CONDITIONAL USES: (Subject to the conditions as herein provided).

1. Garbage service companies - terminals where vehicles used for the transport of garbage are stored or cleaned.

2. Any use permitted in any commercial zone, which is deemed by the Council after recommendation of the City Planning Commission to be compatible with existing or projected industrial development in the area.

3. Ambulance service business. (Ord. 80-131; 1968 Code § 14-29)

14-3-2005: OFF-STREET LOADING: (Rep. by Ord. 86-124)

14-3-2006: OTHER REQUIREMENTS:

- A. If a side or rear yard is provided for any building permitted in this zone, the yard must be at least three feet (3') deep.
- B. Dwellings shall comply with all regulations of the R-5 zone, including yard regulations, lot coverage and lot density. (Ord. 80-131; 1968 Code § 14-41)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 21 APD - AIRPORT PLANNED DEVELOPMENT

SECTION:

14-3-2101: Where Established
 14-3-2102: Minimum Requirements
 14-3-2103: Principal Permitted Uses
 14-3-2104: Accessory Uses
 14-3-2105: Modification of Regulations
 14-3-2106: Additional Powers; Regulations, Fees, Inspections
 14-3-2107: Application; Site Plan
 14-3-2108: Preliminary Development Plan
 14-3-2109: Development Plan and Zone Change Request
 14-3-2110: Development Plan, Contents
 14-3-2111: Development Plan, Amendments
 14-3-2112: Time Limitation, Abandonment
 14-3-2113: City-Owned Airport Property

14-3-2101: WHERE ESTABLISHED: An Airport Planned Development zone, hereinafter APD, may be established upon any tract of land in any district held by single ownership or under unified control. Should ownership or control become diversified after proceedings hereunder are commenced, the regulations of this Article shall continue to apply to the whole development as a unit, and such diversification shall not be deemed a valid basis for a variance or an amendment of the approved development plan. (Ord. 80-131; 1968 Code § 14-29)

14-3-2102: MINIMUM REQUIREMENTS: The person seeking to establish an APD shall show to the satisfaction of the Planning Commission, and the Planning Commission must so find, before the Planning Commission shall recommend approval to the City Council or City Council shall so find on an appeal before approval, that the following requirements of an APD zone have been established:

A. That the site location of an APD has a reasonable relationship to the established major

- A) traffic thoroughfare system and the land use plan of the area, and
- B. That an economic need exists for the proposed APD, and
- C. That the proposed APD will not overload existing or planned utility lines or drainageways on the basis of reports from the Department of Utilities and the Department of Public Works, and
- D. That the proposed APD will not be in conflict with other existing or approved airports in the region in regard to sound aviation practices such as, but without limiting the generality of the foregoing, glide slopes, holding patterns or air space requirements, and
- E. That the proposed APD will not have an adverse affect upon the use or value of the nearby areas, considering noise and safety, existing or proposed residential, commercial or industrial uses and further, that the proposed APD does conform with sound planning principles and with the policy of the City's Comprehensive Plan. (Ord. 80-131; 1968 Code § 14-29)

14-3-2103: PRINCIPAL PERMITTED USES: In an APD zone, no buildings or land shall be used and no building shall be erected, structurally altered or enlarged which is intended or designed for other than one of the following uses:

- 1. Airfield and landing strips.
- 2. Airport terminals (passenger and air cargo).
- 3. Hangars and Tie-down facilities.
- 4. Navigation instruments and aids.
- 5. Aviation control towers.

6. Airline ticket sales facilities.

7. Aircraft maintenance facilities.

8. The Planning Commission may approve any similar lawful uses they deem to be compatible with the principal permitted uses and with the requirements of this Article when the development plan is considered. (Ord. 80-131; 1968 Code § 14-29)

14-3-2104: ACCESSORY USES: Any building, structure or use customarily incidental to the aforementioned permitted uses, including but not limited to:

1. Retail sales facilities.

2. Restaurants, taverns, cafeterias.

3. Offices.

4. Automobile leasing and rental facilities.

5. Auto parking lots including employees, storage and others. (Ord. 80-131; 1968 Code § 14-29)

14-3-2105: MODIFICATION OF REGULATIONS:

The requirements of the APD zone may be modified upon recommendation of the Planning Commission to the City Council so that the property under consideration may be developed in a reasonable manner and without detriment to the public welfare and interest. At the public hearing before the Planning Commission, recommendations from the City of Colorado Springs Airport Advisory Commission, the Federal Aviation Administration (if applicable), and affected local and regional planning agencies concerning the proposed modification shall be reviewed. Any modification of this Chapter shall not be finally approved until a report of the Planning Commission action has been received and approved by the City Council. (Ord. 80-131; 1968 Code § 14-29)

14-3-2106: ADDITIONAL POWERS; REGULATIONS, FEES, INSPECTIONS: The Planning Commission shall have the power to make and adopt such rules and regulations as are necessary and proper to effectuate the purposes of the zone, and to establish such scheduled fees as are required to cover the

reasonable cost of advertising, inspection and review of each project. (Ord. 80-131; 1968 Code § 14-29)

14-3-2107: APPLICATION; SITE PLAN: The proponents of an APD shall make written application to the Planning Commission for the rezoning of property for an APD. In conjunction with the request for rezoning, at least two (2) copies of a detailed site plan containing all elements as required in the zone shall be submitted for consideration. The application shall conform with requirements as established by the Planning Commission. (Ord. 80-131; 1968 Code § 14-29)

14-3-2108: PRELIMINARY DEVELOPMENT PLAN:

A. To Planning Department and Director of Aviation. At least ten (10) working days prior to the Planning Commission deadline date, the proponents of an APD shall present to the City Planning Department and to the Director of Aviation a preliminary development plan for inspection and comment.

B. To Airport Advisory Commission. The Director of Aviation shall submit the plan to the Airport Advisory Commission at their next regularly scheduled meeting for review. (Ord. 80-131; 1968 Code § 14-29)

14-3-2109: DEVELOPMENT PLAN AND ZONE CHANGE REQUEST:

A. To Planning Commission. The proponents of an APD zone shall, after review of the preliminary plan by the Planning Department and by the Director of Aviation, submit a plan of development in conjunction with the request for rezoning to the Planning Commission for its consideration. Such plans require approval by the City Council before any building permits in the APD shall be issued.

B. Hearing; Recommendation. The Planning Commission shall hold a public hearing on the zone change request and development plan. At the public hearing before the Planning Commission, suggestions from the City of Colorado Springs Airport Advisory Commission

- B) and the Federal Aviation Administration (if applicable) concerning the proposed plan shall be considered. If, from the evidence submitted, the Commission finds that the plan and the zone change request meet all the requirements and standards of this Part 21 the Planning Commission may recommend that the City Council approve the zone change and the plan submitted, subject to any conditions or limitations deemed necessary, be approved.
- C. Special Conditions. In approving a detailed airport development plan, the Planning Commission or the City Council or both may stipulate and impose special conditions which it deems necessary to maintain the public interest and safety.
- D. Appeal. In the event that the Planning Commission disapproves the zone change request or the development plan, appeal may be taken to the City Council according to the procedures set forth in Section 14-17-113A. (Ord. 80-131; 1968 Code § 14-29)

14-3-2110: DEVELOPMENT PLAN, CONTENTS:
The development plan must include:

- A. All entrance and exit driveways, deceleration and acceleration lanes, traffic island and other traffic devices.
- B. Detailed off-street parking and truck loading areas, including location, arrangement and dimensions, width of aisles, width of bays and angle of parking. Ample off-street space for standing, loading and unloading shall be provided within the APD. Parking and loading shall be provided as required by off-street parking requirements and loading requirements.
- C. Size, height and orientation of all free-standing light standards. The Traffic Engineer shall report his professional opinion on the location and illumination of the off-street parking and loading areas. Lights used to illuminate the parking area shall be so placed that they shall not reflect on runway, taxiways or other operational facilities at the airport.
- D. Size, height, character, orientation and dimensions of all signs. Detailed plans for any signs requested or permitted shall be submitted to the Planning Commission for consideration as a part of the development plan. The Planning Commission for consideration as a part of the development plan. The Planning Commission shall not consider any signs until a recommendation has been received from the Airport Advisory Commission.
- E. Size, arrangement and height and elevations of all buildings, the exterior dimensions and setback dimensions of all buildings and the total area occupied by buildings.
- F. A landscaping plan which will present a park-like appearance for all public and private buildings and related off-street parking facilities. Landscaping shall be arranged so as not to adversely affect the landing, take-off, taxiing of aircraft, and the imaginary surfaces and air spaces as created in the APD zone.
- G. Sidewalks and any other areas to be devoted to public use plus all appropriate dimensions.
- H. A detailed drainage flow plan which is acceptable to the Department of Public Works.
- I. A statement on the final development plan of the stages which will be followed in construction of the APD and a schedule of said construction.
- J. All proposed runways, taxiways, plane tie-down areas, etc., with detailed dimensions. Indication as to type of runway (instrumented; noninstrumented).
- K. The scale, the date of the plan, a north arrow.
- L. Evidence of compliance with all provisions of the City subdivision regulations.
- M. Name of the APD.
- N. Correct legal description of the property.
- O. An airport elevations and topographic map illustrating existing and final contours with a maximum contour of two feet (2').
- P. Map illustration description of the airport referenced imaginary surfaces and air spaces as prescribed by the Federal Aviation Agency.

- P) How said air space required for this particular airport relates to other existing and approved airports in the region. (Ord. 80-131; 1968 Code § 14-29)

14-3-2111: DEVELOPMENT PLAN, AMENDMENTS: Application for an amendment to an approved development plan on file shall be made to the Planning Commission on a form provided therefor, and shall be accompanied by a statement showing the reasons for the amendment applicable. Processing shall be as required in this Chapter. (Ord. 80-131; 1968 Code § 14-29)

14-3-2112: TIME LIMITATION, ABANDONMENT:

- A. A time limit of two (2) years shall begin with the approval of the development plan. Failure to begin construction as scheduled or within two (2) years shall void the plan as approved unless a request for an extension of time is granted.
- B. Requests for an extension of time for an approved development plan shall be submitted to the Planning Commission for consideration. The Planning Commission shall hold at least one public hearing on the proposed extension of the approved development plan, and if, from the evidence submitted, the Commission finds that the provisions of this Section are still met, the Planning Commission may approve said extension. At the public hearing before the Planning Commission, suggestions from the Airport Advisory Commission, the Federal Aviation Administration (if applicable) and any affected local or regional planning agency concerning the extension of time requested must be reviewed. The approved extension of time requested must be reviewed. The approved extension of time for the approved development plan will then be reported to the City Council. If the City Council does not object at the Council meeting at which the action of the Planning Commission is reported, the extension of time shall be in full force and effect. In the event that the Planning Commission disapproves the request for an extension of time, appeal may be taken to the City Council according to the procedures set forth in this Chapter. In no event shall a particular extension of time for commencement

- B) of construction of an approved APD development plan exceed two (2) years. (Ord. 80-131; 1968 Code § 14-29)

14-3-2113: CITY-OWNED AIRPORT PROPERTY:

The requirements of this Part 21 shall not be applicable to land owned by the City and part of the City of Colorado Springs Municipal Airport and zoned Airport Planned Development zone if the City Planning Commission and the City Council, or the City Council on appeal, have approved a master plan for the development of the Colorado Springs Municipal Airport. If a master plan has been approved, the Director of Aviation, after consultation with the Director of Planning, may approve land use developments on the City of Colorado Springs Municipal Airport in the Airport Planned Development zone that agree with the master plan. If proposed land use developments are not in conformance with the master plan, such land use development shall be treated as otherwise set forth in this Part 21. Any person desiring to appeal any action of the Director of Aviation may make such appeal as if the Director of Aviation were the Director of Planning as set forth in this Chapter. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 22 SU - SPECIAL USE

SECTION:

14-3-2201: Description and Purpose
 14-3-2202: Minimum Requirements
 14-3-2203: Principal Permitted Uses
 14-3-2204: Conditional Uses
 14-3-2205: Submission of Plans, Action by City Planning Commission and City Planning Department

14-3-2201: DESCRIPTION AND PURPOSE: This zone is established to provide for uses customarily located near a college or university, due to the beneficial nature of the close proximity of one to the other. The zone also allows for golf courses and encourages the use of open space within an urban environment. (Ord. 80-131; 1968 Code § 14-42.2; Ord. 80-360)¹

14-3-2202: MINIMUM REQUIREMENTS:

A. Minimum area of lot per family:

Single-Family Dwellings: Five thousand (5,000) square feet.

Two-Family Dwellings: Three thousand (3,000) square feet.

Multi-Family Dwellings:

One story - One thousand (1,000) square feet per dwelling.

Two story - Eight hundred (800) square feet per dwelling.

Three story - Seven hundred (700) square feet per dwelling.

Four, five and six story - Six hundred (600) square feet per dwelling.

B. Maximum percentage of lot to be used:

Principal and accessory buildings. Fifty percent (50%).

C. Maximum height of principal building. Sixty feet (60').

D. Minimum frontage of lot. Fifty feet (50').

E. Minimum yard dimensions.

Front Yard. Twenty five feet (25').

Side Yard. Five feet (5'). Add two (2) additional feet to each side yard for every story in excess of one story.

Rear Yard. Twenty five feet (25').

F. Landscape requirements for uses other than one-family or two-family residential uses. See Section 14-8-104 for parking lot landscaping requirements and Article 10 for other landscape requirements. (Ord. 80-131; Ord. 80-360; Ord. 85-43; Ord. 86-39; Ord. 86-177; 1968 Code § 14-42.2)

14-3-2203: PRINCIPAL PERMITTED USES:

1. Accredited colleges.

2. Fraternity houses and sorority houses.

3. Residential dwellings, all types.

4. Nursing homes.

5. Rooming houses.

6. Religious Institutions.

7. Public and nonpublic schools.

8. Human service establishments.

9. Day care center:

(a) Day care centers shall provide the minimum square footage of indoor and outdoor space per person that complies with the State's minimum square footage requirements. No part of the required outdoor space shall be situated within any front yard setback. The required outdoor space shall be screened from adjacent residential properties when necessary and appropriate to reduce play area sounds.

¹ Ordinance No. 80-360 became effective on January 1, 1981.

(b) Day care centers must be located on a collector street which for the purpose of this definition shall mean a street having direct access to a minor arterial roadway.

10. Retirement home.

11. Clinic, medical or dental offices and other offices.

Any use accessory to a clinic or medical or dental office building or office complex, such as drug prescription and supply shop, office or shop for fabricating and fitting prosthetic or corrective devices or medical or dental laboratories, shall be permitted as an accessory use to the permitted use within any clinic, office building or office complex, provided such accessory use shall be intended for the use of the occupants and clientele of such office.

12. Off-campus college administrative offices.

13. Off-campus housing operated by or exclusively for an accredited college. (Ord. 80-131; Ord. 80-360; Ord. 85-43; Ord. 85-111; Ord. 86-119; 1968 Code §§ 14-42.2, 14-42.3)

14-3-2204: CONDITIONAL USES:

1. Club or lodge (nonprofit).

2. Educational and eleemosynary institutions, planetariums and theaters.

3. Libraries, museums and art galleries and opera houses (nonprofit).

4. Public or private golf course and customary auxiliary uses (miniature golf course is not permitted). (Ord. 80-131; Ord. 80-360; 1968 Code §§ 14-42.2, 14-42.3)

14-3-2205: SUBMISSION OF PLANS, ACTION CITY PLANNING COMMISSION AND CITY PLANNING DEPARTMENT:

A. Prior to the issuance of a building permit for any of the principal permitted uses, with the exception of a one-family dwelling, an approved development plan must be on file with the City Planning Department. Development plans must

A) meet the requirements of Article 5 of this Chapter. Development plans may be approved by the City Planning Department unless otherwise stated in a motion by the City Planning Commission or City Council.

B. Conditional uses must follow the procedures outlined in Article 6 of this Chapter. (Ord. 80-360)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 23 RVP - RECREATIONAL VEHICLE PARK

SECTION:

- 14-3-2301: Description and Purpose
- 14-3-2302: Where Established
- 14-3-2303: Application; Letter of Intent
- 14-3-2304: Minimum Requirements
- 14-3-2305: Principal Permitted Uses
- 14-3-2306: Accessory Uses
- 14-3-2307: Development Plan
- 14-3-2308: Landscaping
- 14-3-2309: Plans; Processing, Appeal

14-3-2301: DESCRIPTION AND PURPOSE: The purpose of the Recreational Vehicle Park zone is to assure reasonable standards for the development of facilities for the occupancy of recreational vehicles within the City. A recreational vehicle park, as hereinafter referred to, is understood to be a developed area which contains sites for the temporary location of assorted recreational vehicles to include travel trailers, motor homes, truck campers and to a lesser extent, tents. Such park facilities cover a range of short overnight stops, to longer destination-type stays of several days to weeks. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2302: WHERE ESTABLISHED: A recreational vehicle park may be established on any tract of land held in single ownership or unified control provided that the proponent of a recreational vehicle park shall show and the Planning Commission and the City Council shall find, or the City Council shall find on approval:

- A. That a need exists for the proposed recreational vehicle park.
- B. That the site is in conformance with sound planning principles and the land use plan for that area.
- C. That the site shall not be exposed to objectionable smoke, noise, odor or other adverse influences.

- D. That the site has an acceptable relationship to the major traffic thoroughfare plan and that the site is accessible to recreational vehicles without causing disruption to residential areas.

5. That the proposed recreational vehicle park will not overload utility and drainage facilities. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2303: APPLICATION; LETTER OF INTENT:

The proponent of a Recreational Vehicle Park zone shall make written application to the City Planning Commission on the forms and in the manner prescribed by the Planning Commission. The proponent of a Recreational Vehicle Park Zone shall also submit with his application a letter of intent setting forth all information relevant to the zoning request including but not limited to:

- A. Total number of acres in the proposed recreational vehicle park.
- B. Acreage and percent of land to be set aside as open space.
- C. The type of proposed recreational facilities, if applicable.
- D. Number of recreational vehicle sites to be incorporated into this park.
- E. Recreational vehicle site density per acre.
- F. Standard or typical recreational vehicle site width and length.
- G. Proposal for phasing development, if applicable.
- H. The schedule of development.
- I. Source of water and sewer services. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2304: MINIMUM REQUIREMENTS:

- A. Recreation vehicle parks shall have a minimum frontage of one hundred feet (100') at the building setback line.
- B. Recreational vehicle sites, office buildings, accessory buildings and other facilities shall be set back at least ten feet (10') from any property lines. When adjacent to any property line adjoining a public street the required setback shall be twenty feet (20').
- C. Vehicular Spacing.
 - 1. Pull through recreational vehicle sites shall maintain fifteen feet (15') between vehicles parking in adjoining sites.
 - 2. Back-in recreational vehicle sites shall maintain ten feet (10') between vehicles, to include automobiles, parking in adjoining sites.
- D. Recreational vehicle sites shall be set back twenty feet (20') from any building.
- E. A minimum of eight percent (8%) of the total area of the park shall be reserved for purposes of open space or recreational facilities. If parcels of open space exist, they shall be sufficient size and distribution as to be a functional park of the entire development plan.
- F. All access drives shall be a minimum of twenty feet (20') wide.
- G. The maximum density permitted in a recreational vehicle park is twenty (20) recreational vehicle sites per acre. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2305: PRINCIPAL PERMITTED USES:
Recreational vehicles. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2306: ACCESSORY USES:

- 1. Swimming pools, tennis courts and similar recreational uses when established as an integral part of the recreational vehicle park and intended for the use and benefit of the residents of such parks.

- 2. Convenience-type retail sales and services, such as small grocery stands, coin-operated laundries, food and drink dispensing machines, which are located within the recreational vehicle park and intended solely for the use and benefit of the residents of the park.

- 3. All setback requirements shall be observed in the case of buildings connected with accessory uses and with the establishment of buffering and landscaping in conjunction with each building when deemed necessary by the Planning Department. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2307: DEVELOPMENT PLAN: The development plan for a recreational vehicle park shall be submitted to the Planning Department. Such a plan must meet the requirements of Article 5 and the following requirements:

- A. The approximate location of each existing building and proposed structure, the height of the structures and the uses contained therein.
- B. The proper setbacks must be indicated with reference to property lines, highways or street rights of way.
- C. The location, dimensions and surface of all parking and maneuvering areas.
- D. The approximate location of water courses and other natural or historic features.
- E. Contours of the areas and location of all roadways and walkways. The proposed location of all bridges and culverts, all drainage and utility easements existing or contemplated, green belts, open spaces and types of recreational facilities, all sanitary facilities including restrooms, showers, bath houses, water stations and recreational vehicle waste disposal stations.
- F. The location and dimensions of all permanent accesses from publicly dedicated streets, roads or highways.
- G. A landscaping plan for the site.

- H. The plan shall be drawn to scale. It shall show any existing developments and improvements of adjacent properties lying within three hundred feet (300') of the proposed project.
- I. A drawing or drawings of typical recreational vehicle sites within the park.
- J. The location and dimensions of any signs within the park.
- K. A vicinity map to locate the project in relation to the community.
- L. The stages in which the project will be developed. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2308: LANDSCAPING:

- A. There shall be provided a screening wall or fence or landscaping strip suitable to provide a visual screening effect along the side and rear property lines, when adjacent to a public street, as deemed necessary by the Planning Department.
- B. All open space and setbacks shall be adequately landscaped to provide a park-like appearance.
- C. Recreational vehicle parks should be fitted to the terrain with a minimum of disturbance to the land. Existing trees, rock formations and other natural site features should be preserved to the extent practical.
- D. A minimum of trees shall be planted within the interior of the recreational vehicle park in addition to the existing trees on the site. The minimum number of trees shall be equal to the number of recreational vehicle sites proposed. Such trees shall be of a suitable type and size to provide effective shade or screening effects within the park site. (Ord. 80-131; 1968 Code § 14-42.8)

14-3-2309: PLANS; PROCESSING, APPEAL:

- A. Submission. The proponents of a Recreational Vehicle Park zone shall submit to the Planning Department a final development plan in conformance with the regulations set forth herein for Planning Department consideration. The Planning Department may approve the development plan and authorize the issuance of building permits only if said plan is in conformance with the regulations as set forth in this Part 23. The Planning Department must review and make its recommendation in writing concerning the development plan within fifteen (15) working days after said plan has been submitted. The Director of Planning shall report to the Planning Commission every final development plan approved by the Planning Department with all conditions for said approval.
- B. Appeal. Appeal of the Planning Department's decision to the Planning Commission shall follow the procedures of Section 14-7-113A. (Ord. 80-131; 1968 Code § 14-42.8)

*CHAPTER 14 ZONING***ARTICLE 3 ZONE DISTRICTS - REGULATIONS***PART 24 SP - SPECIAL PERMIT***SECTION:**

- 14-3-2401: Description and Purpose
- 14-3-2402: Development Plan
- 14-3-2403: Restrictions

14-3-2401: **DESCRIPTION AND PURPOSE:** The Special Permit may be designated for any building or use of land of the departments of the City, County, State or Federal government or the use of land for a public utility. The purpose of the Special Permit is to establish the procedure that may allow governmental buildings and operations due to the unique service that is not precisely covered in the other zones of this Chapter. The criteria for granting a Special Permit shall be a legislative determination of public need, and if the Special Permit shall be granted for a public purpose. (Ord. 80-131)

14-3-2402: **DEVELOPMENT PLAN:** An application for a zone change to SP shall be accompanied by a development plan as described in Article 5. (Ord. 85-43)

14-3-2403: **RESTRICTIONS:** The City Council may authorize the Special Permit subject to such protective restrictions as it deems necessary, the location in any zone within the City, the use of land and/or buildings for any departments of the City, County, State or Federal government or public utility. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 25 P - PLANNED PROVISIONAL (OVERLAY)

SECTION:

14-3-2501: Description
 14-3-2502: Purpose
 14-3-2503: Criteria
 14-3-2504: Provisions
 14-3-2505: Uses
 14-3-2506: Minor Adjustments

- C. That a detailed review of a development plan is needed to adequately foresee and eliminate potential negative impacts to adjoining properties.
- D. That the parcel is within an older redeveloping area of the City where special development requirements have been established by the City. (Ord. 80-131)

14-3-2501: DESCRIPTION: The Planned Provisional (Overlay) zone may be created within any district listed in this Article when considered necessary according to meeting one of the listed criteria. This overlay district shall be designated by the suffix "P" added to the symbol of the parent district. All provisions designated by the City Council shall be made a part of the recorded ordinance. (Ord. 80-131)

14-3-2504: PROVISIONS: The following provisions are to be used as examples only and not interpreted as an all exclusive list of provisions. Provisions may be requested by an applicant or imposed by the Planning Commission or City Council.

14-3-2502: PURPOSE: To be used primarily for those unique situations not adequately covered by the standard zone districts which are anticipated to have potential relationship problems to an existing developed area. This overlay zone may be used in both newly developing areas as well as older areas of the City in the process of redeveloping. (Ord. 80-131)

- A. Submittal of a development plan (see Article 5, Development Plans). Development plans will be submitted to the Planning Department for review and approval unless otherwise specified. Development plans may be approved or referred back to the Planning Commission for approval.
- B. Landscaping plan or additional landscaping.
- C. Fencing.
- D. Increased setbacks. (Ord. 80-131)

14-3-2503: CRITERIA: The Planning Commission and/or City Council shall first find one of the following criteria to be present in establishing the "P" overlay zone with any parent zone.

14-3-2505: USES: Permitted uses within the parent zone may not be eliminated without the consent of the applicant. (Ord. 80-131)

- A. That the requested zone is not adequate in the particular situation to protect the surrounding developed area.
- B. That additional improvements are needed to provide a better transition between different categories of uses.

14-3-2506: MINOR ADJUSTMENTS: Due to the flexibility that is desired through the use of the "P" overlay zone, minor adjustments to the minimum requirements and standards of the parent zone may also be made by the Planning Commission and/or City Council. These adjustments shall be limited to the following:

- A. Parking requirements - up to ten percent (10%) of the standard.
- B. Landscaping - only location, but not quantity.
- C. Front, rear and side yard setbacks - up to ten percent (10%) of the standard.
- D. Percentage of lot coverage - no more than an additional five percent (5%). (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 26 NP - NAVIGATION PRESERVATION (OVERLAY)

SECTION:

- 14-3-2601: Purpose
- 14-3-2602: Definitions
- 14-3-2603: Criteria; Trees and Structures Generally
- 14-3-2604: Criteria; Instrument Approach Zone
- 14-3-2605: Criteria; Noninstrument Approach zone
- 14-3-2606: Use Restrictions
- 14-3-2607: Nonconforming Uses
- 14-3-2608: Variances
- 14-3-2609: Encroachment a Nuisance

14-3-2601: **PURPOSE:** The general purpose and objective of this Part 26 is to promote the public safety and general welfare in obtaining maximum safety in all aircraft operations in the Municipal Airport or aircraft arriving at and departing from said Airport and further to provide the maximum safety for persons living or working at or in the vicinity of said Airport and to protect structures and buildings in the vicinity of the Airport. (Ord. 3904; Ord. 80-131; 1968 Code § 14-51.1)

14-3-2602: **DEFINITIONS:**¹ Except where specifically defined herein all words used in this Part 26 shall carry their customary meanings, when not inconsistent with the context.

AIRPORT means City of Colorado Springs Municipal Airport.

AIRPORT ELEVATION means the established elevation of the Airport above Mean Sea Level (MSL). The established elevation of the Airport shall be six thousand one hundred seventy two feet (6,172') above Mean Sea Level (MSL).

AIRPORT HAZARD means any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport.

AIRPORT REFERENCE POINT means the point established as the approximate geographic center of the airport landing area and so designated on the Airport Zoning Map.

DATUM PLANE means a horizontal plane or surface which includes the surface point of the Airport elevation.

HEIGHT for the purpose of determining the height limits, the datum shall be Mean Sea Level elevation unless otherwise specified.

INSTRUMENT RUNWAY means a runway equipped or to be equipped with a precision electronic navigational aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

LANDING AREA means the area of the Airport used for the landing, taking off or taxiing of aircraft.

LEGAL NONCONFORMING USE means any structure, tree, natural growth or use of land existing on the effective date of this Part 26 which is inconsistent with the provisions of this Part 26 or any amendment hereof.

NONINSTRUMENT RUNWAY. A runway other than an instrument runway.

PERSON. As defined in Section 1-1-203 of this Code and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

RUNWAY. The paved surface of the Airport landing area used primarily for the landing and take-off of aircraft.

STRUCTURE. An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, overhead transmission lines and similar objects.

1. For definitions of general application, see Section 1-1-203 of this Code. For definitions of general application within this Chapter, see Section 14-1-109.

TREE. An object of natural growth. (Ord. 3904; Ord. 80131; 1968 Code § 14-51.2)

14-3-2603: CRITERIA; TREES AND STRUCTURES GENERALLY: There are hereby adopted the following criteria for the use of airspace in relationship to the Airport. Except as otherwise provided in this Chapter. No structure or tree shall be erected, altered, allowed to grow or maintained in any zone established by this Chapter to a height in excess of any of the Airport referenced surfaces described below. Nothing in this Part 26 shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to twenty two feet (22') above the surface of the land. (Ord. 3904; Ord. 8013; 1968 Code § 14-51.3)

14-3-2604: CRITERIA; INSTRUMENT APPROACH ZONE: For all instrument approach runways at the Airport, the following criteria and definitions shall apply, and the boundaries of the instrument approach shall be the boundaries of the outermost surface or surfaces, projected vertically if required:

- A. Primary Surface. A surface located on the ground or water longitudinally centered on each runway extending two hundred feet (200') beyond each end of that runway. The width of the primary surface is one thousand feet (1,000').
- B. Clear Zone Surface. A surface located on the ground or water at each end of the primary surface, with a length of one thousand feet (1,000') and the same width as the primary surface.
- C. Horizontal Surface. A plane, oval in shape, at a height of one hundred fifty feet (150') above the established airport elevation. The plane is constructed by scribing an arc with a radius of ten thousand feet (10,000') above the centerline at the end of the primary surface of each runway and interconnecting these arcs with tangents.
- D. Conical Surface. A surface extending from the periphery of the inner horizontal surface outward

D) and upward at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

E. Approach Surface for Instrument Runways. An inclined plane, symmetrical about the runway centerline extended, beginning at each end of the primary surface at the centerline elevation of the runway end and extending for fifty thousand feet (50,000'). The slope of the approach surface is fifty to one (50:1) along the runway centerline extended for a distance of ten thousand feet (10,000'). It then continues outward and upward at a slope of forty to one (40:1) to a point fifty thousand feet (50,000') from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at fifty thousand feet (50,000') from the end of the runway is sixteen thousand feet (16,000').

F. Transitional Surfaces for Instrument. Those surfaces that connect the primary surfaces and the approach to the horizontal surface, conical surface, or other transitional surfaces. The slope of the transitional surface is seven to one (7:1) outward and upward at right angles to the runway centerline. (Ord. 3904; Ord. 80-131; ord. 86-229; 1968 Code § 14-51.3)

14-3-2605: CRITERIA; NONINSTRUMENT APPROACH ZONE: For all noninstrument approach runways at the Airport, the following criteria shall apply and the boundary of the noninstrument approach zone shall be the boundaries of the outermost surface or surfaces, projected vertically if required:

- A. Primary Surface for Noninstrument Runways. A surface longitudinally centered on a runway and extending in length two hundred feet (200') beyond each end of a noninstrument runway. The width of the primary surface for noninstrument runways shall be five hundred feet (500'). The elevation of any point on the longitudinal profile of a primary surface, including the extensions, coincides with the elevation of the centerline of the runway, or extension, as appropriate.

- B. Approach Surface for Noninstrument Runways. The approach is five hundred feet (500') wide (at each end of the primary surface) and extends outward and upward at a slope of twenty to one (20:1), expanding to a width of two thousand feet (2,000') at a horizontal distance of five thousand feet (5,000').
- C. Transitional Surfaces for Noninstrument Runways. Transitional surfaces for noninstrument runways shall extend outward and upward at right angles to the runway centerline at a slope of seven to one (7:1) from the edges of the primary and the approach surfaces until they intercept the horizontal and conical surface of an instrument approach zone. (Ord. 3904; Ord. 80-131; Ord. 86-229; 1968 Code § 14-51.3)

14-3-2606: **USE RESTRICTIONS:**

- A. Notwithstanding any other provisions of this Chapter, no use may be made of land within any zone established by this Chapter in such a manner as to create electrical interference with radio communication between the Airport and aircraft, make it difficult for flyers to distinguish between Airport lights and others, result in glare in the eyes of flyers using the Airport, impair visibility in the vicinity of the Airport or otherwise endanger the landing, taking off or maneuvering of aircraft.
- B. Within the area designated on the map indicated as Plan Development Zone Limit Map for the Airport, only the following zones may be established provided said zones are established in conformance with the basic policies of the City's Comprehensive Plan:
 1. PIP-1 Planned Industrial Park.
 2. PIP-2 Planned Industrial Park.
 3. PBC-2 Planned Business Center.
 4. PBC-2 Planned Business Center.
 5. PUD Planned Unit Development.
 6. A Agricultural.

- B) 7. APD Airport Planned Development.

8. All general zones if the "Planned Provisional" overlay zone is applied. (Ord. 3904; Ord. 80131; 1968 Code § 14-51.4)

14-3-2607: **NONCONFORMING USES:**

- A. Regulations Not Retroactive. The regulations prescribed by this Part 26 shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part 26, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part 26, and is diligently prosecuted.
- B. Marking and Lighting. Notwithstanding the preceding provisions of this Part 26, the owner of any nonconforming structure or tree shall permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Advisory Board to indicate to operators of aircraft in the vicinity of the Airport the presence of such Airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the City.
- C. Existing Uses. No permit shall be granted that would allow the establishment or creation of an Airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation than it was on the effective date of this Chapter¹ or any amendments thereto or than it is when the application for a permit is made. (Ord. 3904; Ord. 80-131; 1968 Code §§ 14-51.5)

14-3-2608: **VARIANCES:** The proponents of a variance of this Part 26 shall make written application to the Planning Commission for its consideration. The Planning Commission shall hold

1. The ordinance from which this provision derives became effective August 26, 1969.

at least one public hearing on the proposed variance and if, from the evidence submitted, the Commission finds that said variance is consistent with the intent and purpose of this zone, the Planning Commission may recommend approval of said variance. If the Planning Commission elects to recommend that the proposed variance be approved, said recommendation will then be reported to the City Council. If the Council does not object at the Council meeting at which the action of the Planning Commission is reported, the variance shall be automatically approved and shall thereafter be in full force and effect. At the public hearing before the City Planning Commission, recommendations from the Airport Advisory Commission, the Federal Aviation Administration, and any affected local or regional planning agency concerning the proposed variance must be reviewed. In the event the Planning Commission disapproves the requested variance, appeal may be taken to the City Council according to the procedures set forth in this Chapter. Any variance granted may, if such action is deemed advisable to effectuate the purpose of this zone and be reasonable in the circumstances, be so conditioned as to require that the proponents install, operate and maintain at their expense, upon the structure or tree in question such markers and lights as may be necessary to indicate to flyers the presence of Airport hazards. (Ord. 3904; Ord. 80-131; 1968 Code § 14-51.6)

14-3-2609: ENCROACHMENT A NUISANCE: It shall be unlawful for anyone to build, rebuild, create or cause to be built, rebuilt or created any object or plant, cause to be planted or permit to grow higher any tree or trees or other vegetation, which shall encroach upon any Airport protection privileges, but it shall be lawful to make maintenance repairs to or to replace parts of existing nonconforming structures or trees which do not enlarge or increase the height of an existing nonconforming structure or tree. Any such encroachment is declared to be a public nuisance and may be abated in the manner prescribed by law for the abatement of public nuisances or the City may go upon the land of others and remove any such encroachment without being liable for damages in so doing. (Ord. 3904; Ord. 80-131; 1968 Code § 14-51.7)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 27 HR - HIGH-RISE (OVERLAY)

SECTION:

- 14-3-2701: Description and Purpose
 14-3-2702: Floor Area Ratio
 14-3-2703: Maximum Height of Buildings
 14-3-2704: Indoor Parking
 14-3-2705: Bulk Limitations
 14-3-2706: Plans; Concept, Development
 14-3-2707: Other Requirements

15,000' = 45,000 square feet. (45,000 square feet is allowable if other requirements can be met). (Ord. 80-131; 1968 Code § 14-42.5)

14-3-2703: **MAXIMUM HEIGHT OF BUILDINGS:**
 Unlimited, except as provided within this Part 27. (Ord. 80-131; 1968 Code § 14-42.5)

14-3-2701: **DESCRIPTION AND PURPOSE:** This zone, when combined with and included within the PUD, R-5, OC, PBC-2, C-5, C-6, PIP-1, PIP-2, M-1, M-2, SU or SP zone districts, permits the construction of high-rise buildings in accordance with the following special height, area and bulk limitations. Other provisions and requirements of the respective zones will remain applicable and in force and effect. (Ord. 80-131; 1968 Code § 14-42.5)

14-3-2702: **FLOOR AREA RATIO:** The following factors are to be used in determining the maximum square footage within the high-rise building for each designated zone. These factors should be multiplied by the area of the lot to determine maximum total floor area permitted.

<u>Zone</u>	<u>Factor</u>
PUD	3
R-5	3
OC	3
PBC-2	4
C-5	5
C-6	10
PIP-1	2
PIP-2	3
M-1	3
M-2	4
SU	2
SP	2

Example: Zone R-5, lot area 100' x 150' = 15,000 square feet. Factor 3 total maximum floor area 3' x

14-3-2704: **INDOOR PARKING:** Indoor parking area on the lot or premises for vehicles shall be considered as additional lot area for the purposes of determining compliance with the requirements for lot area per dwelling unit and said parking area shall also be excluded from the gross floor area required in Section 14-3-2702 above. (Ord. 80-131; 1968 Code § 14-42.5)

14-3-2705: **BULK LIMITATIONS:**

- A. Within the HR zone a building which makes use of the additional height provided by the height exception in this zone will be restricted by the following limitations as to bulk.
- B. No part of any structure (except church spires, church towers, flag poles, antennas, chimneys, flues, vents, cooling towers, elevator and mechanical penthouses and accessory water tanks) or any other structures not used as floor space or human occupancy, provided said structures are an integral part and architecturally compatible with the building, shall project up through bulk limits which are defined by planes as listed below:

1. In the PUD, R-5, OC, PIP-1, PIP-2, M-1, SU, SP zone, planes with a pitch of two (2) vertical to one horizontal from lines twenty feet (20') above lot lines.

2. In the PBC-2, C-5 zones, planes with a pitch of three (3) vertical to one horizontal from lines twenty feet (20') above lot lines.

- B) 3. In the C-6 zone, planes with a pitch of three and seventy five one hundredths feet (3.75') vertical to one foot (1') horizontal from street center lines.
4. In the M-2 zones, planes with a pitch of one to one from lines twenty feet (20') above lot line. (Ord. 80-131; Ord. 85-43; 1968 Code § 14-42.5)

14-3-2707: **OTHER REQUIREMENTS:** High-rise buildings in the R-5 zone shall be limited to the principal permitted uses of that zone. Approved conditional uses shall not occupy more than ten percent (10%) of the floor area of a high-rise building. (Ord. 80-131; 1968 Code § 14-42.5)

14-3-2706: PLANS; CONCEPT, DEVELOPMENT:

- A. Included with any request for the establishment of a High-Rise Overlay zone will be a concept plan which will include at least all of the following items:
1. Vicinity map.
 2. Bar scale.
 3. North arrow.
 4. Legal description.
 5. Existing and proposed contours at two foot (2') intervals.
 6. All public and private easements.
 7. The location and dimensions of all proposed buildings or existing buildings which will remain.
 8. General use of all buildings, with amount of floor area for each use.
 9. All existing and/or proposed curb cuts.
 10. Location and dimension of all parking areas, number of parking stalls and all driving and maneuvering lanes.
- B. Development Plan. Prior to the issuance of a building permit for a high-rise structure within the High-Rise zone, an approved development plan must be on file with the City Planning Department. Development plans must meet the requirements of Article 5 of this Chapter. Development plans may be approved by the City Planning Department unless otherwise stated in a motion by the City Planning Commission or City Council. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 28 FP - FLOOD PLAIN (OVERLAY)

SECTION:

- 14-3-2801: Description and Purpose
- 14-3-2802: Definitions
- 14-3-2803: Delineation of Flood Plain Districts
- 14-3-2804: Obstruction, Public Nuisance
- 14-3-2805: Unlawful Activities
- 14-3-2806: Permits
- 14-3-2807: Allowable Uses by Permit
- 14-3-2808: Permit Conditions
- 14-3-2809: Permit Approval or Denial
- 14-3-2810: Permit Fee
- 14-3-2811: Obstructions, Removal
- 14-3-2812: Entry on Lands
- 14-3-2813: Orders
- 14-3-2814: Appeal
- 14-3-2815: Floodway Obstruction Removal Fund
- 14-3-2816: Disclaimer
- 14-3-2817: Remedies

14-3-2801: DESCRIPTION AND PURPOSE:

- A. The Flood Plain district is an overlay zone and may be combined with any other zone in the City. Both the restrictions and requirements of this Part 28 and those other parts of this Code pertaining to the zone upon which the Flood Plain district is superimposed shall apply in the Flood Plain district.
- B. The purpose of the Flood Plain district is to secure safety from flood; to prevent loss of life; to prevent property damage and all other related dangers; to promote the public health and general welfare by regulating and restricting areas in the flood plains of watercourses in the City which are subject to periodic flooding; and to preserve the location, character and extent of natural drainage courses. (Ord. 74-94; Ord. 80-131; 1968 Code §§ 14-49, 14-49.2)

14-3-2802: DEFINITIONS:¹

100-YEAR FLOOD shall mean a flood having an average frequency of occurrence in the order of once in one hundred (100) years, although such flood may occur in any year, in any area of the City.

BOARD shall mean the Drainage Board of the City of Colorado Springs, and the Director of Public Works or his designee shall act as the enforcement officer of the Board.

CHANNEL shall mean the geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water.

DIRECTOR OF PUBLIC WORKS shall mean the City Director of Public Works or his designee.

FLOOD PLAIN shall mean that area of land including the watercourse or standing body of water which has been or may be covered by floodwater.

FLOOD PROOFING shall mean a combination of structural provisions, changes or adjustments to properties and structures within the flood plain, primarily for the reduction or elimination of flood damages to property, water and sanitary facilities, structures and contents of buildings in the flood plain. Where applicable the Corps of Engineers "Flood Proofing Regulations Manual" shall be used as a guide.

FLOODWAY shall mean the channel of a watercourse and that portion of the adjoining flood plain required to provide for the passage of the one hundred (100) year flood with an insignificant increase in flood stage above that of natural conditions.

LOCATE shall mean construct, place, insert or excavate.

MINIMUM BUILDING ELEVATION shall mean the elevation to which uses regulated by this Part 28 are required to be elevated or flood-proofed. This elevation is equal to the elevation that could be

1. For definitions of general application, see Section 1-1-203 of this Code. For definitions of general application within this Chapter, see Section 14-1-109.

reached by the one hundred (100) year flood if it occurred under conditions existing at the time this Part 28 was passed, plus one foot (1') to allow for encroachments due to insignificant increase above that of natural conditions.

NATURAL OBSTRUCTION shall mean any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a floodway by a nonhuman cause.

OBSTRUCTION shall mean artificial obstruction, such as any dam, wall, wharf, embankment, levee, dike, pile, abutment, excavation, channel rectification, bridge, conduit, culvert, building, structure, wire, fence, rock, gravel, refuse, fill or other analogous structure or matter in, along, across or projecting into any flood plain which may impede, retard, change the direction of the flow of water or increase the flooding height, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.

OWNER shall mean any person who has dominion over, control of or title to an obstruction.

WATERCOURSE shall mean any stream, arroyo or drainageway having a channel or drainage system that serves to give direction to a flow of water. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.1)

14-3-2803: DELINEATION OF FLOOD PLAIN DISTRICT:

- A. The Board shall initiate a program for the delineation of flood plains for watercourses in the City. It shall make a study relating to the acquiring of flood data, and have authority to enter into arrangements with local, State or Federal governmental agencies, or private firms to provide for such acquisition of data.
- B. When sufficient data has been acquired to reasonably locate the flood plain of a one hundred (100) year flood for a watercourse, the Board shall after a public hearing, recommend to the City Council the lines and limits of the Flood Plain district on the zoning map and drainage basin maps of the City. The City Council shall consider such recommendations and either approve, disapprove or modify such recommendations.

- C. If approved or modified, the City Council shall enact an ordinance delineating such lines on the zoning map of the City. The City Council shall have the power to alter such lines at any later time upon recommendation of the Board, if a re-evaluation of the then available flood data warrants it.

- D. Notice of any such hearing or order of the Board establishing or altering any such Flood Plain district or portion thereof shall be given in accordance with this Chapter.¹ Prior to the public notice, copies of the delineation shall be available for inspection by any citizen in the office of the City Engineer. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.3)

14-3-2804: OBSTRUCTION, PUBLIC NUISANCE:

Any obstruction in any flood plain not exempt under this Chapter is hereby-declared to be a public nuisance unless a permit has been obtained for such obstruction from the Director of Public Works. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.4)

14-3-2805: UNLAWFUL ACTIVITIES:

- A. It shall be unlawful for any person to locate any obstruction within an established flood plain, or for any owner to permit any obstruction to remain within designated flood plains without a permit from the Director of Public Works. No obstruction existing on the effective date of this Part 28² shall be affected; provided, that no person shall make nor shall any owner allow alterations of any obstruction within an established flood plain before or after the effective date of this Part 28² except upon express written approval of the Director of Public Works. No alteration, addition or repair to any nonconforming obstruction over the life of the obstruction shall exceed fifty percent (50%) of its value, unless the obstruction is permanently changed to a nonconforming use.
- B. Any owner of land may channelize, confine, relocate or alter a watercourse or standing body of water traversing or bordering such land with the purpose of minimizing flooding, ponding or erosion, and be permitted to fill or grade adjacent land; provided, that all such changes are based on sound engineering design and a permit or permits are secured as required by

1. See "Public Notice" under Section 14-1-109 of this Code. See also Section 14-17-111.

2. The ordinance from which this provision derives was approved July 23, 1974.

- B) this Code. As a condition of permitting a watercourse or standing body of water to be channelized, confined, relocated or altered, the Director of Public Works may require that the channelized, confined, relocated or altered watercourse or standing body of water be dedicated to the public use. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.5)

14-3-2806: PERMITS:

- A. The Director of Public Works shall have the power to issue permits for the location or alteration of obstructions which would otherwise violate this Code. the application for the permit shall contain such information as the Director of Public Works shall require, including but not limited to, complete maps, the zoning designation plans, profiles and specifications of the obstruction and watercourse.
- B. In passing upon such application, the Director of Public Works shall consider:
1. The danger to life and property by water which may be backed up or diverted by such obstruction;
 2. The danger that the obstruction will be swept downstream to the injury of others;
 3. The availability of alternate locations;
 4. The construction or alteration of the obstruction in such a manner as to lessen the danger;
 5. The permanence of the obstruction;
 6. The anticipated development in the foreseeable future of the area which may be affected by the obstruction; and
 7. Such other factors as are in harmony with the purpose of this Section. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.6)

14-3-2807: ALLOWABLE USES BY PERMIT: The Director of Public Works may by permit allow the following uses if such uses meet the requirements set forth herein, and those of the zone superimposed by the Flood Plain district.

- A. The following uses may be permitted in the floodways of the flood plain upon issuance of a permit by the Director of Public Works:
1. Cultivation and harvesting of crops according to recognized soil conservation practices;
 2. Pasture, grazing land, outdoor plant nursery, orchard and harvesting of any wild crops;
 3. Wildlife sanctuary, woodland preserves, aboretum;
 4. Outlet installations for sewage treatment plants, sealed public water supply wells;
 5. Recreational uses such as; parks, day camps, picnic groves, golf courses, hunting, fishing, tennis clubs and boating clubs, provided no principal building is located in the floodway.
 6. Commercial uses such as: parking lots, railroads, streets, utility lines, storage yards for equipment and material not subject to major damage or displacement by flood.
- B. All uses allowed in the zone upon which the Flood Plain district has been superimposed shall be allowed in the Flood Plain district upon issuance of a permit by the Director of Public Works and subject to the following floodproofing regulations:
1. Buildings or structures may be located and existing buildings or structures may be altered, provided the first floors of said buildings or structures are placed at or above the minimum building elevation.
 2. Foundations of all structures shall be designed and constructed to withstand flood conditions at the proposed construction site.
 3. Basements, lower floors or appurtenances located below the minimum building elevation shall be designed and constructed to prevent passage of water into the building or structure and withstand flood conditions, including hydrostatic pressure of elevated water-tables and the momentum of floodflows. Materials for construction shall be of the type not deteriorated appreciably by water. Windows, doorways and other openings into the building

B,3) or structure that are located below the minimum building elevation shall be designed and constructed incorporating adequate flood proofing.

4. All electrical equipment, circuits and installed electric appliances shall be located so as not to be subject to flooding or shall be flood proofed to the minimum building elevation.

5. Sanitary and storm sewer drains shall be equipped with valves capable of being closed, manually or automatically, to prevent backup of sewage and storm waters into the building or structure. Gravity drainage of basements may be eliminated by mechanical devices.

6. Chemical storage, explosive, buoyant and flammable liquid storage shall be located at or above the minimum building elevation, or shall be adequately flood proofed to prevent flotation of tanks or other appreciable damage or escape of toxic materials into floodwaters.

7. Land may be filled provided such fill extends a minimum of fifteen feet (15') beyond the limits of any building or structure erected thereon. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.7)

14-3-2808: PERMIT CONDITIONS: The Director of Public Works may make a part of such permit any conditions he may deem advisable to implement the purpose of this Part 28. For the permit to remain in force, any obstruction must be maintained so as to comply with the conditions and specifications of the permit. All permits are subject to revocation in accordance with Section 72 of the Charter. (Ord. 75-94; Ord. 80-131; 1968 Code § 14-49.8)

14-3-2809: PERMIT APPROVAL OR DENIAL:

Permit applications for obstructions to be located in the flood plain must be specifically approved or denied within twenty (20) days of receipt by the Director of Public Works; permit applications for obstructions in the flood plain shall be conclusively deemed to have been granted after twenty (20) days of receipt of application, unless the Director of Public Works notified the applicant that the permit application is denied. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.9)

14-3-2810: PERMIT FEE: The Board may establish a permit fee to cover the cost of processing permit applications and inspections. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.10)

14-3-2811: OBSTRUCTIONS, REMOVAL: The powers and duties of the Director of Public Works relative to obstructions in a flood plain shall include the following:

- A. Where a natural obstruction to a flood plain has been created by fallen trees, silt, debris and like matter, the Director of Public Works may, in his discretion, remove the natural obstruction, in which case the cost of removal shall be borne by the City.
- B. Where, after investigation, notice and hearing, an order has been issued to the owner of an obstruction not exempt under the provisions of this Chapter for its removal or repair, and the order is not complied with, within such reasonable time as may be prescribed by the Director of Public Works; or, if the owner cannot be found or determined, the Director of Public Works may make or cause such removal or repairs to be made. The reasonable cost of the removal or repairs shall constitute a lien against the obstruction removed or repaired and against the lot or parcel of land from which it was repaired. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.11)

14-3-2812: ENTRY ON LANDS: The Board and the Director of Public Works or his agents may make reasonable entry upon any lands and waters within the Board's jurisdiction for the purpose of making any investigation, survey, removal or repair contemplated by these sections. An investigation of any natural or artificial obstruction shall be made by the Board either on its own initiative or upon the written request of any three (3) owners of land abutting the watercourse involved. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.12)

14-3-2813: ORDERS: The Director of Public Works may issue such orders as are necessary to implement the provisions of this Part 28. If an order is issued to the owner of an obstruction not exempt under the provisions of this Chapter for its removal or repair, such order shall not become effective less

than ten (10) days after a hearing is held relating to such order. Where any order is issued which affects with particularity the land adjacent to any watercourse, notice of the contents of such order and of any required hearing shall be mailed by the Director of Public Works to the owner of such land not less than ten (10) days before the date of such hearing; or, if there is a required hearing, to the owner of such land and to the owner of the obstruction not less than ten (10) days before the date of such hearing; provided, that such notice need not be given to the owner of the obstruction if the owner cannot be found or determined. All orders issued by the Director of Public Works shall be on file at the office of the Director of Public Works. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.13)

14-3-2814: APPEAL: Any person aggrieved by any decision of the Director of Public Works may appeal from such order to the Board. Any person aggrieved by any order of the Board may appeal from such order to the City Council. Such appeal may be taken within thirty (30) days after the order has been entered. In the event such an appeal is taken, enforcement of such order shall be stayed pending the outcome of such appeal, unless the Board determines there is imminent danger to the public. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.14)

14-3-2815: FLOODWAY OBSTRUCTION REMOVAL FUND: The City Treasurer is hereby directed to create and establish the Floodway Obstruction Removal Fund and to credit to such for the removal of natural obstructions as provided in this Code, such money as shall be specifically appropriated by the City Council. Funds collected under Section 14-3-2810 shall be included in this Fund. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.15)

14-3-2816: DISCLAIMER:

A. The granting or denial of a permit shall not have any effect on any remedy of any person at law or in equity; provided, that where it is shown that there is a wrongful failure to comply with this Part 28, there shall be a rebuttable presumption that the obstruction was the proximate cause of the flooding of the land of any person bringing suit.

B. The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind or nature by the City or by any officer or employee thereof, of the practicability or safety of any structure or use proposed, and shall create no liability upon or cause of action against the City, the Board or a member of the Board or City employee. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.17)

14-3-2817: REMEDIES: The remedies set forth in this Part 28 are not exclusive and the use of any one of the remedies or powers given in this Part 28 shall not constitute a bar to the exercise of any other remedy or power given by this Code or other law. (Ord. 74-94; Ord. 80-131; 1968 Code § 14-49.18)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 29 HS - HILLSIDE AREA (OVERLAY)

SECTION:

14-3-2901: Description and Purpose
 14-3-2902: Designations
 14-3-2903: Applicability
 14-3-2904: Land Suitability Analysis
 14-3-2905: Development Plan
 14-3-2906: Master Facilities Plan
 14-3-2907: Grading Plan, Erosion Control and Reclamation
 14-3-2908: Issuance of Building Permits
 14-3-2909: Restoration and Maintenance
 14-3-2910: Appeals

14-3-2901: DESCRIPTION AND PURPOSE:

- A. Certain areas of the City are characterized by slope, vegetation, drainage, rock outcroppings, geologic conditions and other physical factors and which, if disturbed for purposes of development, could cause physical damage to public or private property or both. Therefore, the development of such areas and adjacent land requires special care on the part of the public and private sectors.
- B. The purpose of these regulations is to specify conditions for any type of development in areas where, due to topography, disturbance of the natural environment, or for other reasons, problems may be created which are detrimental to the public health, safety and welfare. It is the intent of these regulations to prevent physical damage to public and private property and to aid in the preservation of the natural heritage of the City. It is furthermore the purpose of this Part to allow an appreciable degree of development flexibility in order to protect the environment of hillside areas. Specifically, the objectives of this Section are:
 1. To conserve the unique natural features and aesthetic qualities of hillside areas.
 2. To provide safe and convenient access to hillside areas.

- B) 3. To minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs.
4. To assure type, distribution, and densities of development which are compatible with the natural systems and terrain of the hillside areas.
5. To assure that the taxpayers of Colorado Springs are not burdened by extraordinary costs for services attributable solely to the development of hillside areas. (Ord. 83-229)

14-3-2902: DESIGNATIONS:

- A. The Hillside Area Overlay Zone map dated March 24, 1981 adopted by the City Council by Ordinance No. 81-49 establishes and depicts the areas of the City covered by the Hillside Area Overlay Zone. The Council may at its discretion and from time to time add areas to the Hillside Overlay Zone map if such areas meet the criteria in subsection 14-3-2901A.
- B. The Hillside Area Overlay is to be combined where applicable with other zoning districts in the City. Public notices for designating an area a hillside area shall be in accordance with this Chapter; however, posting shall not be required. (Ord. 83-229)

14-3-2903: APPLICABILITY:

- A. No building or structure may be erected, reconstructed, or structurally altered on land which is designated on the zoning maps of the City as a hillside area, nor shall such land be subdivided, graded, or otherwise disturbed for purposes of development, subdivision, or any other purpose unless such construction, subdivision, disturbance, or development is undertaken in accordance with the requirements set forth in this Part and all other laws of the City.

- B. Upon written request from a landowner or authorized representative, the Planning Director and the Director of Public Works may exempt certain property from all or part of the requirements of Part 29 if the subject property is not a characteristic hillside area as described in subsection 14-3-2901A. the request shall clearly state the rationale for any exemptions and list all exemptions being sought. The Directors of Planning and Public Works shall respond in writing to the applicant within fifteen (15) working days of receiving an exemption request. (Ord. 83-229)

14-3-2904: LAND SUITABILITY ANALYSIS:

- A. A land suitability analysis shall be required as part of the justification for the proposed development of a hillside area. The analysis shall consist of an evaluation of all physical and environmental factors on the site so that type, density, and distribution of development may be established in the most environmentally compatible manner that will minimize land disturbance, protect natural plant and animal communities, and minimize costs and liability to the City. The suitability analysis shall be prepared in conjunction with the master plan, and the master plan shall be clearly reflective of the analysis. (See Article 2 of this Chapter). Should any land in a designated hillside area not be master planned under the provisions of Article 2, the suitability analysis shall be prepared in conjunction with the development plan. The development plan shall be clearly reflective of that analysis in terms of type, density, and distribution of proposed development.
- B. Should any land in a designated hillside area have an existing, approved master plan which was adopted without an approved suitability analysis, the landowner may at his option:
1. Submit land suitability analysis upon which the master plan was based, or
 2. In lieu of a land suitability analysis, submit written or graphic material or both to the Planning Department addressing the physical and aesthetic factors of the hillside site and demonstrating how these factors influenced the type, distribution, and density depicted by the master plan, or
- B) 3. Prior to or at the time that the development plan is submitted, the landowner shall submit written or graphic material or both addressing the physical and aesthetic factors of the hillside site and demonstrating how these factors influence the project's design as shown on the development plan. (Ord. 83-229)

14-3-2905: DEVELOPMENT PLAN:

- A. No subdivision plat shall be submitted until such time as a detailed development plan has been approved as set forth in subsection B below. The development plan shall be prepared in compliance with Article 5 of this Chapter and shall contain all information required therein unless specifically exempted under subsection 14-3-2903B.
- B. Review and Approval. The Planning Department shall review the submitted development plan. The development plan may be approved by the Department or referred to the Planning Commission at the next regularly scheduled meeting. The Planning Department will notify the applicant in writing within fifteen (15) working days of submittal as to approval, disapproval, or referral to the Planning Commission.
- C. Submittal Requirements. In addition to the submittal requirements A through U listed in Section 14-5-103, the following information is required to accompany a development plan in a designated hillside area, except that in meeting requirements D, H, I, J, M and Q of Section 14-5-103 and requirements 1 and 4 below, the applicant shall not be required to depict actual construction on individual lots in a single-family detached residential development. These exceptions shall not apply to zero lot line or single-family attached developments.
1. Location of a general building area for each lot. This can also be shown by proposing "preservation areas" on lots where appropriate. Proposed access shall also be indicated. (See subsection 14-3-2905C6 below.)
 2. Location and species of vegetation (common names are acceptable) and an indication of vegetation to be removed;
 3. Location of rock outcroppings;

- C) 4. A map of proposed road alignments identifying segments at grades of 0-4%, 4-8%, and 8% and above. Centerline profiles shall be required for all road segments which exceed a grade of 8%. Profiles may be required for segments with grades of less than 8% if deemed necessary by the Director of Public Works.

5. Where grading is to occur, plans showing the relationship of all cuts and fills to the existing topography and plans for the stabilization, restoration, and control of erosion for disturbed areas as required by Section 14-3-2907. A letter of credit or bond shall be required in order to assure proper restoration of disturbed areas in accordance with the approved erosion control/reclamation plan.

6. The manner in which access will be provided or restricted due to topographic and other physical constraints, from the access road to each lot; and

7. Where deviations from those standards contained in the Subdivision Policy Manual are being proposed, a master facilities plan shall be required in accordance with Section 14-3-2906 below.

- D. Criteria for Review. In addition to criteria A through H listed in Section 14-5-104, criteria for review of a development plan in a designated hillside area shall also be as follows:

1. Is terrain disturbance minimized?

2. Is natural vegetation preserved and incorporated into the project design to the maximum possible extent?

3. Have visual impacts upon off-site areas been avoided or reasonably mitigated? Mitigation measures which may be demonstrated on the development plan may include, but are not limited to:

(a) Alternative siting of structures so that there is a mountain or hillside backdrop to the structure from areas where the structure is visible. However, this shall not preclude siting of structures on ridge lines where alternative siting is not available.

- D,3) (b) Use of existing vegetation to soften structural mass when building sites are located in highly visible areas.

(c) Use of supplementary native landscaping to soften structural mass when building sites are located in highly visible areas.

(d) Designation of special height restrictions for highly visible areas. Height may not be restricted to less than two (2) stories if other appropriate mitigation measures are incorporated.

(e) Use of visually compatible stabilization measures for cuts and fills.

- E. Amendments. All amendments to an approved development plan shall be processed in the same manner as the original development plan, except that development plans approved by Planning Commission and Council may be revised administratively. (Ord. 83-229; Ord. 86-67)

14-3-2906: MASTER FACILITIES PLAN: In order to allow for design flexibility, a master facilities plan shall be required concurrent with the detailed development plan when deviations from City development standards as contained in the Subdivision Policy Manual are being proposed. Standards for development of hillside areas are contained in the Subdivision Policy Manual. Due to the unique and often fragile nature of hillside environs, certain variances from the hillside standards may be allowed if they will result in superior and more environmentally compatible design. The master facilities plan shall be used to demonstrate that the proposed deviations will not adversely affect the public health, safety or welfare, and shall specify how the unique natural features of the site will be protected through the careful placement of services. The plan shall be presented by the applicant in lieu of individual waivers requested under Article 3, Part 13 of the Subdivision Code, and shall contain as much information as necessary to justify any deviations from standards contained in the Subdivision Code or Subdivision Policy Manual.

A master facilities plan shall be deemed approved by Planning Commission and City Council when the development plan is approved, consistent with Article 3, Part 13 of the Subdivision Ordinance. Should an

applicant wish to submit a master facilities plan prior to submitting a development plan, it shall be processed as a waiver pursuant to Article 3, Part 13 of the Subdivision Code. (Ord. 83-229)

14-3-2907: GRADING PLAN, EROSION CONTROL, AND RECLAMATION:

A. The primary objective of the grading/erosion control/reclamation plan is to minimize terrain disturbance and to restore and stabilize those areas which are disturbed. Plans for grading and control of erosion shall be submitted by the applicant with the development plan, development plan amendment, or replat, whichever is applicable, in any designated hillside area. No land so designated shall be subdivided, graded, otherwise disturbed for purposes of development, or any other purpose until the plan for grading and erosion control is approved by the Planning Director and the Director of Public Works. The grading plan shall meet all the requirements of Section 15-3-1503 of the City Code. In addition, the grading plan shall show all areas to be disturbed by grading and fill and shall show proposed final contours for these areas. The contour interval shall be two feet (2') and the horizontal scale 1" = 40' unless otherwise approved by the Department of Public Works. The erosion control/reclamation plan or program shall state in detail how each type of restoration situation will be dealt with, recognizing that different combinations of slope and material may require varied stabilization methods. No cleared, graded, or otherwise disturbed land may be left without temporary protective stabilizing cover longer than six (6) months or without permanent cover as described in the erosion control plan longer than one year from the date of disturbance. All grading plans prepared and submitted under this Section shall include measures for drainage and erosion control to be employed during construction. Such measures shall remain in place after construction has been completed until such time as temporary or permanent protective cover is applied. Whenever possible and wherever appropriate, erosion control and restoration shall incorporate the use of live native plant materials. Criteria for treatment shall include visual compatibility with the surrounding landscape, sustained survivability under arid conditions, and effectiveness in prevention of soil erosion and slope failure.

- B. All grading plans prepared and submitted under this Section shall include plans for limiting ecological damage through restrictions on the use of construction equipment and placement of supply and equipment storage areas.
- C. Revisions of any approved grading plan shall be submitted to the Planning Department for review and shall be acted upon by the Director of Planning and Public Works within ten (10) working days of receipt.
- D. A letter of credit or surety bond shall be required in order to assure proper restoration of disturbed areas in accordance with the approved erosion control/reclamation plan. This letter or bond need not be submitted for the final plat to be approved, but shall be submitted prior to any land disturbance (including removal or alteration of vegetation) or prior to issuance of any building permit, whichever occurs first. (Ord. 83-229)

14-3-2908: ISSUANCE OF BUILDING PERMIT:

- A. No building permits shall be issued in any designated Hillside Area until such time as:
 - 1. The final plat is recorded, and
 - 2. The surety bond or letter of credit is posted by the developer in accordance with subsection 14-3-2907D, and
 - 3. A plan for grading and erosion control for the individual lot is approved by the Planning Department. This plan shall consist of the following:
 - (a) Plot plan drawn to scale.
 - (b) Two foot (2') contour - existing and proposed.
 - (c) All existing vegetation and rock outcroppings.
 - (d) All areas of cut or fill, or both, including driveway.
 - (e) Erosion control/stabilization methods for cuts and fills.
 - (f) Restrictions on equipment use and supply storage areas so that disturbances and ecological damage is minimized.

- A,3) The Planning Department shall respond to this plan within three (3) working days of receipt. (Ord. 83-229)

14-3-2909: RESTORATION AND MAINTENANCE:

A. Restoration.

1. Unpermitted land disturbance or alteration. If any land disturbance or alteration including, but not limited to grading or otherwise disturbing natural ground cover occurs in a Hillside Overlay Zone which is not in accordance with the properly approved plans as required by this Part, a stop order may be issued in accordance with Section 14-17-101 of this Code prohibiting all further activity until all required plans have been submitted and properly approved. The landowner shall have forty five (45) days after such a stop order is issued to submit a plan pursuant to Sections 14-3-2907 and 14-3-2905. The Director of Planning with the concurrence of the Director of Public Works may extend this time period for an additional forty five (45) days for good cause shown. The Director of Planning and Director of Public Works may also condition their approval of any restoration measures upon supplying a satisfactory bond, letter of credit or other suitable guarantee for the performance of any proposed restoration. Such plan shall require that restoration commence within thirty (30) days after the plan approval and proceed with due diligence to completion.

B. Maintenance.

1. Obligation to Maintain. All facilities, vegetation, and other items required by the approved grading, erosion control and reclamation plan shall be properly maintained by the owners of the property. Such maintenance shall include, but not be limited to keeping all erosion control facilities in good order and functional, repairing any erosion damage that occurs, keeping all vegetation healthy and in growing condition and replacing any dead vegetation as soon as practicable. This obligation to maintain shall not apply to individual lots except as the individual lots may be subject to maintenance obligations incurred under the approved grading, erosion control and reclamation plan and except for obligations incurred under Section 14-3-2908.

- B) 2. Failure to Maintain. If the Director of Public Works or the Director of Planning determines the maintenance required under this subsection has not been performed in the manner required, the Director of Planning or the Director of Public Works with the concurrence of the other may give notice to the property owner specifying the maintenance determined to be required under this subsection. The Director of Planning with the concurrence of the Director of Public Works may extend this forty five (45) day period if, because of other factors, the required maintenance cannot reasonably be performed within forty five (45) days for an additional forty five (45) day period. If the maintenance specified in such notice is not satisfactorily performed within forty five (45) days, or additional forty five (45) day extension after delivery of this notice, the City may proceed with a formal notice and order to correct as hereinafter set forth.

- C. Formal Notice and Order to Correct - City Performance of Restoration and Maintenance Work. If the approval as required by Section 14-3-2909A has not been obtained within the time required or work is not commenced within the time required or if maintenance required under Section 14-3-2909B has not been commenced or concluded within the time required, or at any time prior to approval or commencement of such work that the Director of Public Works determines there is either imminent or existing erosion damage, drainage damage, dust pollution, or other hazardous condition for which immediate action is necessary, the Director of Public Works may cause corrective proceedings to be undertaken and shall submit a notice and order to correct in accordance with the provisions of Section 15-3-1506 of the City Code.

- D. Application of Part 15 of Article 3 of Chapter 15 of this Code. In the event the Director of Public Works issues a notice and order to correct as provided for in Section 15-3-1506 of the city Code and under the authority set forth in Section 14-3-2909C of the City Code, all of the provisions of Part 15 of Article 3 of Chapter 15 of the City Code shall apply. (Ord. 83-229)

14-3-2910: APPEALS: Except as provided in Section 14-18-105, appeals of any administrative

action under the provision of this Part shall be made in accordance with Section 14-17-113; provided that whenever the Director of Public Works issues a notice and order to correct under the authority of Section 14-3-2909C and pursuant to Section 15-3-1506 of the City Code, this Section shall not apply to any matters subject to this notice and order to correct. Appeals of these matters shall proceed in accordance with Part 15 of Article 3 of Chapter 15 of the City Code and any appeal in process under this Section pertaining to these matters shall terminate. (Ord. 83-229; Ord. 85-11)

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 30 MINING OPERATIONS

SECTION:

- 14-3-3001: Definitions
- 14-3-3002: Where Mining Operations Permitted
- 14-3-3003: Application, Contents
- 14-3-3004: Criteria for Approval
- 14-3-3005: Bond

14-3-3001: **DEFINITIONS:**¹ For the purpose of this Part 30, the following definitions will be observed:

- A. **MINING OPERATIONS** shall mean activities conducted on the surface or underground for the exploration for, development of, or extraction of natural products including but not limited to sand, gravel, topsoil, limestone and coal from their natural occurrences and the cleaning, concentrating, refining or other processing or preparation and loading for transit of crude natural products at or near the mine site.
- B. **UNDERGROUND MINING OPERATIONS** shall mean those mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine openings, and such use of the surface as is incidental thereto.
- C. **SURFACE MINING OPERATIONS** shall mean those mining operations carried out on the surface including strip, area strip, contour strip or auger mining, dredging and leaching or any combination thereof and activities related thereto.
- D. **OPEN PIT MINING** shall mean that surface mining method in which the overburden is removed from atop natural products and in which, by virtue of the thickness of deposits, mining continues in the same area proceeding predominantly downward with lateral expansion of the pit necessary to maintain
 - D) slope stability and necessary to accommodate the orderly expansion of the total mining operation.
- E. **OVERBURDEN** shall mean all of the earth and other materials which lie above the natural deposits of natural products and also mean such earth and other materials disturbed from their natural state in the process of open pit mining.
- F. **OPERATOR** shall mean any person, firm or corporation engaged and controlling a mining operation.
- G. **AFFECTED LAND** shall mean the area of land, whether on the surface or below the surface, which is used in the mining operation including the land from which overburden is to be removed, that land upon which overburden is to be deposited, and that land which in any manner is directly utilized in the mining operation such as a shaft or tunnel entrance.
- H. **REFUSE** shall mean all waste material directly connected with the cleaning and preparation of substances mined in mining operations.
- I. **RECLAMATION** shall mean the employment during and after a mining operation of procedures reasonably designed to minimize as much as practical the disruption from the mining operation and to provide for the rehabilitation of any such surface resources adversely affected by such mining operations through the rehabilitation of plant cover, soil stability, water resources and other measures appropriate to the subsequent beneficial use of such mined and reclaimed lands.
- J. **MINE OPENING** shall mean any entrance from the surface to an underground mining operation and shall include but not be limited to air shafts, escape shafts, haulage ways and slope entries. A mine opening shall be constructed so as to utilize the minimum

¹ For definitions of general application, see Section 1-1-203 of this Code. For definitions of general application within this Chapter, see Section 14-1-109.

- J) amount of surface area as is practical and cause the least disturbance of the surface.
- K. **TEMPORARY SURFACE MINING OPERATIONS** and **OPEN PIT MINING** shall mean surface mining operations and open pit mining for a period of time not to exceed six (6) months in duration; such six (6) month duration shall commence upon the day the overburden is first disturbed. (Ord. 80-131; 1968 Code § 14-63)

14-3-3002: WHERE MINING OPERATIONS PERMITTED: Mining operations shall be permitted within the City as conditional uses limited to the zones listed below:

- A. Underground mining operations; underground area - any zone.
- B. Underground mining operations; mine openings as are necessary - any zone.
- C. Underground mining operations; aboveground works incidental thereto - A Agricultural zone.
- D. Surface mining operations - A Agricultural zone.
- E. Open pit mining operations - A Agricultural zone.
- F. Temporary surface mining operations and open pit mining - any zone. (Ord. 80-131; 1968 Code § 14-63)

14-3-3003: APPLICATION, CONTENTS:
Petitioners for the conditional use of mining operations shall submit to the City Planning Department the following:

- A. Documentation that the land sought to be conditionally used for the aboveground portion of an underground mining operation, or that the land to be used for surface or open pit mining operations or temporary surface mining operations and open pit mining has been platted and that such plat has been filed with the City Clerk.
- B. Twelve (12) copies of a map prepared by a qualified person, and legal description of the

- B) affected land drawn to a scale of not more than one hundred feet (100') to one inch (1").
- C. The names and addresses of the owners of the surface of the area of land to be affected.
- D. The names and addresses of the owners of the substance to be mined.
- E. The petitioner's legal right to enter and engage in mining operations on the land affected.
- F. The petitioner's general office and address, and local office and address.
- G. A general map of the area showing adjacent zoning, location of wet and dry watercourses, roads, buildings and any other man-made structures.
- H. A description of the natural product to be extracted or mined.
- I. A description of any overburden to be removed.
- J. A reclamation plan describing in detail the rehabilitation of any surface disturbance and the time schedule for such rehabilitation. The reclamation plan shall include:
 1. A complete cost analysis of the reclamation plan. Such a cost analysis should cover a listing of types and amounts of plant and other materials used, grading plans, all temporary and permanent construction related to the reclamation effort and any other accountable items directly related to the reclamation effort.
 2. A description of measures to be taken to control sedimentation and erosion during operation of the mining activity.
 3. A soils and geologic map of the affected area.
 4. A description of the type and character of the vegetation both covering the area that will be affected by the mining operation and also that will be utilized in the reclamation effort.
 5. A contour map of the area to be covered by the mining operation and a map showing finished contours and slopes after reclamation.

- J) 6. A description of the phases in which the reclamation plans shall be implemented and how they relate to any continuing mining operations.
- K. A plot plan of the mine site showing building locations and operation areas.
- L. A description of the method of operation to be carried out, including all operations incidental to the mining operations. Such description shall include any facilities to be utilized at the mine site such as rock crushers, number and size of trucks to transport the minerals, both within and without the mine site, number of employees at the site, protective measures to be undertaken to protect the general public.
- M. If the conditional use is sought to an underground mine, proof of inspection and approval by the Colorado Bureau of Mines. (Ord. 80-131; 1968 Code § 14-63)

14-3-3004: CRITERIA FOR APPROVAL: Before approving mining operations as a conditional use, the Planning Commission and City Council shall find; or if on appeal to the City Council, the City Council shall find:

- A. That the property values of the land surrounding the conditional use will not be substantially reduced.
- B. That the mode and quality of life in any area of the City will not be adversely affected by the proposed mining operation.
- C. That the noise attributable to the operation will be in conformance with Chapter 21, Article 8 of this Code.
- D. That the dust attributable to the operation will be within State and Federal standards.
- E. That the road and highway traffic attributable to the mining operation will not adversely affect the City traffic system by causing unreasonable congestion or excessive deterioration of such system.
- F. That the mining operations will not cause or create adverse drainage and sewage problems.

- G. That an underground mining operation will not unreasonably interfere with the present or anticipated surface used by causing subsidence, vibrations or dust.
- H. That the mining operation is in conformance with the comprehensive master plan of the City and the City master plan for extraction of commercial mineral deposits to be adopted by July 1, 1975.¹
- I. That the reclamation plan and time schedule are acceptable to the City. (Ord. 80-131; 1968 Code § 14-63)

14-3-3005: BOND: If the conditional use is granted by the City Council, the operator shall post a bond with the City. The amount of the bond shall be set by the City and will be in the amount sufficient to ensure carrying out the reclamation plan. (Ord. 80-131; 1968 Code § 14-63)

1. See Chapter 15, Article 4, Part 2 of this Code.

CHAPTER 14 ZONING

ARTICLE 3 ZONE DISTRICTS - REGULATIONS

PART 31 PK - PUBLIC PARKS

SECTION:

- 14-3-3101: Description and Purpose
- 14-3-3102: Procedures and Requirements
- 14-3-3103: Restrictions
- 14-3-3104: Procedures
- 14-3-3105: Amendments

14-3-3104: **PROCEDURES:** The Director of Parks and Recreation shall prepare procedures and guidelines for the preparation of and administrative processing of master plans for parks. (Ord. 86-104)

14-3-3105: **AMENDMENTS:** The master plan for a park may be amended by following the same procedures set forth in Section 14-3-3102 above for adopting master plans. (Ord. 86-104)

14-3-3101: **DESCRIPTION AND PURPOSE:** The Public Parks Zone is used to describe land set aside for use as public recreational and open space areas. These parks may include playground equipment, athletic fields, tennis courts, swimming pools, and other facilities or programmatic activities normally associated with public parks. Parks may also be reserved for naturalistic or environmental reasons, such as preservation of wildlife, vegetation or significant natural or historic resources. (Ord. 86-104)

14-3-3102: **PROCEDURES AND REQUIREMENTS:** All parks zoned pursuant to this Article shall be master planned. All development activities associated with a park shall be pursuant to its master plan. The master plan shall be reviewed and approved at a public hearing by the Park and Recreation Advisory Board. The decision of the Board may be appealed to City Council by the filing of a notice of appeal with the Director of Parks and Recreation within ten (10) days from the date of the Board's decision. If not appealed within ten (10) days, the decision of the Board shall be final. (Ord. 86-104)

14-3-3103: **RESTRICTIONS:** The Park and Recreation Advisory Board or City Council as applicable may place upon the Public Parks Zone protective restrictions as it deems necessary. These restrictions may include setbacks of particular facilities from adjacent use or the amount and location of parking facilities. These restrictions shall be in the master plan for the respective park. (86-104)

CHAPTER 14 ZONING

ARTICLE 4 ACCESSORY USES, TEMPORARY USES AND HOME OCCUPATIONS

SECTION:

14-4-101: Accessory Uses
 14-4-102: Temporary Uses
 14-4-103: Home Occupation

14-4-101: ACCESSORY USES:

A. Definition. An accessory use is a structure or use which meets the following conditions:

1. Is subordinate to and serves a principal building or a principal use;
2. Is subordinate in area, extent or purpose to the principal building or a principal use;
3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
4. Is located on the same lot as the principal building or principal use served.
5. Is not injurious, noxious or offensive to the neighborhood.

B. Authorization. Accessory uses are permitted in any zoning district in connection with any principal use which is permitted within such district.

C. Permitted Accessory Use. Any structure or use that complies with the definition of an accessory use (1, 2, 3 and 4) may be allowed.

1. Accessory structures and uses include, but are not limited to, the following list of examples; provided that in each case such structures must fit the general definition of "accessory use" contained in subsection A of this Section:

a. Private parking garages or carports, not to exceed the following capacity:

For a single-family residence: Four (4) cars per dwelling unit.

C1) For a multiple-family residence: Two (2) cars per dwelling unit.

b. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed four hundred fifty (450) square feet in gross floor area.

c. A child's playhouse.

d. A private swimming pool and bath house.

e. Statuary, arbors, trellises, barbecue stoves, flag poles, fences, walls and hedges, antennas - radio, T.V., C.B. and satellite dish antennas.

f. Fall-out shelters; provided that they shall not be used for any principal or accessory use not permitted in the zoning district.

g. Off-street parking and loading spaces as regulated by Article 8 of this Chapter.

h. Storage of boats, boat trailers, recreational vehicles, motor homes, horse trailers, utility trailers, camping trailers and house trailers provided that no part of such storage area is located in the front yard setback.

i. Employee restaurants and cafeterias when located in a permitted business or manufacturing building.

j. Family foster home.

k. Licensed child care center with attendance of no more than six (6) children.

l. Home occupations.

m. Private stables and corrals for horses can be constructed as accessory buildings, provided they shall be on lots of at least thirty seven thousand (37,000) square feet measured to the nearest hundredth and further provided stables and corrals shall not be constructed

- C, 1) closer than fifty five feet (55') from the principal dwelling unit setback line of any contiguous property.

n. Garage sale provided that: (1) Each garage sale is held no more than two (2) times per calendar year, and (2) each garage sale does not exceed a period of two (2) consecutive days.

o. Similar uses which in the opinion of the Planning Director or Planning Commission meet the definition of an accessory use. (1,2,3 and 4).

2. None of the following shall be permitted as an accessory use.

a. Outdoor storage or overnight parking in a residential district of a vehicle with a gross vehicle weight rating (G.V.W.R.) of ten thousand (10,000) pounds or greater or construction equipment, landscaping equipment or similar equipment and the trailers to move such equipment.

b. Outdoor storage except as specifically permitted by the district regulations.

D. Bulk Regulations.

1. Accessory structures and uses shall be set back a minimum of five feet (5') from the rear lot line.

2. Accessory structures and uses shall maintain the same side and front yard as is required for the principal structure located on the zoning lot.

3. No part of any accessory structure shall be located closer than six feet (6') to any principal structure.

4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located.

5. A garage shall be setback a minimum of ten feet (10') from any public right of way.

- E. Use Limitations. All accessory structures and uses shall comply with the use limitations applicable in the zoning district in which they are located. No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory. (Ord. 80-131; Ord. 81-102; Ord. 82-115; Ord. 83-187; Ord. 85-43; Ord. 86-124)

14-4-102: TEMPORARY USES:

- A. Definition. Those land uses and structures which are needed, or are in place, for only short periods of time.

- B. Authorization. The following uses of land are permitted in each zoning district (unless restricted to particular zoning districts), subject to the specific regulations and time limits which follow, and to the other applicable regulations of the district in which the use is permitted.

1. Christmas Tree Sales: Only the following zones (A, PBC-1, PBC-2, C-5, C-6, PIP-2, M-1, M-2) for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of this Chapter provided that no tree shall be displayed within thirty feet (30') of the intersection of the curb line of any two (2) streets. A license must be obtained from the City Clerk's office.

2. Contractors Office and Equipment Sheds - Accessory to a Construction Project: (Permit must be obtained from the City Planning Department.) (Estimated completion date with the option of one year extension.)

3. Temporary offices and bank facilities in mobile homes will be allowed in the following zones (C-5, C-6, PBC-1, PBC-2, OC, M-1, M-2, PIP-1, PIP-2), for a period of time not to exceed one year after a development plan as defined in Article 5 of Chapter 14 is approved. The development plan must show the locations of the proposed temporary facility and the proposed permanent facility. The permit must be obtained from the City Planning Department.

4. Real Estate Office - Model Homes (containing no sleeping or cooking accommodations unless located in a model dwelling unit) Incidental to a New Housing Development. (Permit must be obtained from the City Planning Department.) Maximum number of permanent employees - five (5), time limit - one year plus one year extension.

5. Seasonal Sale of Farm Produce and/or Sea Food: Only the following zones (A, PBC-1, C-5, C-6, PBC-2, PIP-2, M-2) to continue for not more than four (4) months per year. (License must be obtained from the City Clerk's office.)

6. Promotional Activities in Commercial and Industrial Zones Involving the Display of Good

B,6) and Merchandise: May be conducted outside of enclosed buildings for a period of not more than two (2) consecutive weeks in any three (3) month period, not to exceed fifteen (15) days and retail business may display merchandise that is for sale within the building in the area immediately adjacent to the building subject to the following conditions:

a. No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the City Clerk's office.

b. No required off-street parking space or loading area will be utilized for such display, storage or dispensing.

c. No food or drink may be displayed outside the building except in accordance with standards and prior written approval of the El Paso County Department of Public Health.

d. These provisions shall in no way be deemed to authorize the outdoor display of automobiles, trailer and equipment rental, or the sale of used furniture, used appliances, used plumbing, used housewares, used building materials or similar display or sale in any building district.

7. Amusement Enterprises. Carnival, circus, or menagerie as defined in Section 8-2-101 of this Code, and amusement rides as defined in Section 8-2-201 of this Code may be allowed in any zone for a period not to exceed fifteen (15) days provided that the Planning Department first determines that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected, and provided that the allowance of such use is consistent with the intent and purpose of the Chapter to promote the public health, safety and general welfare. The Planning Department shall receive written reports or comments from the following City departments prior to the approval or denial of such use: Noise Abatement, Fire Department, Police Department and Traffic Department. In the allowance of such use, the Planning Department or upon appeal the Hearing Officer or City Council shall have authority to require such reasonable conditions as necessary to protect the public health, safety and general welfare and to ensure that the use, value and

B7) qualities of the neighborhood surrounding the proposed location will not be adversely affected. Prior to the issuance of a license under Part 1 or Part 2 of Article 2 of Chapter 8 of this Code, the City Clerk shall receive approval as herein provided by the Planning Department, or upon appeal the Hearing Officer or City Council. (Ord. 80-131; Ord. 82-115; Ord. 83-45; Ord. 85-11)

14-4-103: HOME OCCUPATIONS:

A. Purpose. It is recognized that there is a desire by some residential dwelling unit owners or occupants, or both, to use a residence in a manner subordinate to its principal use as a residence. It is also recognized that these subordinate uses defined herein as home occupations, can increase rapidly and that such home occupations must be limited so as to not impair the use or value of the residential zone. It is the intent of this Section to provide clear standards for home occupations in residential zones which will insure compatibility with the residential purposes of the residential zones and insure that there are no adverse effects on the residential character of the residential zone, and not allow in residential zones uses permitted in commercial and industrial zones except as specifically authorized by this Section.

B. Home Occupations Unlawful. Home occupations shall be unlawful in residential zones unless all of the standards set forth in subsection C are met.

C. Standards.

1. Nuisance or Hazard. For purposes of this subsection C, disturb means to unreasonably annoy, perturb or interfere with the quiet enjoyment of another's premises. The home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, congestion to traffic flow, parking problems, or any other nuisance or hazard which disturbs the peace and quiet of a residential zone.

2. Residents. Only persons residing in the dwelling may be engaged in a home occupation.

3. Signs. No sign may be used other than a sign identifying the home occupation, which sign

C,3) shall not be over two (2) square feet in area and which sign must be attached to the dwelling. There shall be no illumination of the sign.

4. Conduct Limitations. The home occupation is conducted only within the garage or dwelling, excluding porches, except that plants may be grown anywhere on the premises.

5. Area Limitations. The total area used for a home occupation conducted within a dwelling or garage may not exceed an area equivalent to one-half the total first floor area of the user's dwelling, excluding porches.

6. Secondary Use. The home occupation is secondary to the residential use of the dwelling.

7. Outside Storage. No storage or display of materials, goods, supplies or equipment related to the operation of a home occupation or tangible personal property manufactured, or plants grown as a result of the home occupation and removed from the soil shall be allowed on porches or outside of the garage or the dwelling.

8. Off Street Parking. The required off-street parking areas provided for the principal use as defined in Article 8, shall not be reduced or made unusable by the home occupation.

9. Delivery. The receipt or delivery of merchandise, goods, or supplies for use in a home occupation shall be limited to the United States mail, similar parcel delivery service, or private vehicles with a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds or less.

10. Alteration Limitations. Interior alterations or additions to the dwelling for the purpose of accommodating the home occupation are prohibited if such alterations or additions eliminate either the kitchen, dining area, bathrooms, living room, or all of the bedrooms of the dwelling.

11. No Exterior Alterations. Exterior alterations or additions to the dwelling or the garage for the purpose of accommodating the home occupation are prohibited.

12. Sales. Sales on the premises of tangible personal property or plants shall occur within a

C,12) dwelling or garage by the residents of the dwelling and shall be limited to tangible personal property manufactured in the dwelling or garage or plants grown anywhere on the premises provided that this shall not preclude the sale of tangible personal property or plants off the premises.¹

D. Administrative Interpretation. Upon request for a determination of a home occupation, the Planning Director may make an administrative determination concerning whether a proposed use meets the standards for home occupation as set forth in subsection C of this Section. Prior to making such determination, the Planning Director may require any information that he deems necessary to make a determination under these standards. Any decision of the Planning Director is appealable pursuant to Section 14-17-113.

E. Prohibited Uses. The following uses by the nature of the investment or occupation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby substantially impair the use and value of a residentially zoned area for residential purposes. The uses specified below are prohibited as home occupations provided that such prohibition shall not include a telephone answering service for such uses:

1. Motor vehicle repair.

2. Barber shop which is designed to serve more than one customer at a time or serves more than one customer at a time.

3. Beauty salon which is designed to serve more than one customer at a time or serves more than one customer at a time.

4. Instruction to more than three persons at a time.

5. Paint shops using spray painting equipment. (Ord. 83-252; Ord. 86-124)

1. See Article 2 of Chapter 7 of this Code for Sales and Use Tax Requirements.

CHAPTER 14 ZONING

ARTICLE 5 DEVELOPMENT PLANS

SECTION:

- 14-5-101: Purpose
- 14-5-102: Definition
- 14-5-103: Submittal Requirements
- 14-5-104: Criteria for Review
- 14-5-105: Procedure for Review
- 14-5-106: Additional Information

14-5-101: PURPOSE: Each zoning district is primarily intended for a predominant type of land use, with specific minimum and maximum physical requirements which regulate height, bulk and placement on the site. Depending upon the specific location, all combinations of permitted uses and physical requirements may not be appropriate. It is necessary to require a development plan review so that the impact of the proposed use can be judged against all the circumstances weighing upon this individual case. This review may indicate the most appropriate development for the site is one which is less, in terms of height, density, range of uses, etc., than the maximum allowed by the zone. (Ord. 82-46)

14-5-102: DEFINITION: A development plan is a graphic representation of a proposed development plan showing the intended uses and layout of the property including, but not limited to, building locations, parking, ingress/egress, landscaping, and location of freestanding and low profile signage. The approved development plan becomes the official zone for the property and development of the property must be made in accordance with the approved development plan. Changes in the development plan may be affected only by approval of an amendment to the development plan. (Ord. 82-46)

14-5-103: SUBMITTAL REQUIREMENTS: All submitted development plans shall contain the following information:

- A. Completed application form.
- B. Indication of scale (1" = 40') and a bar scale.
- C. North arrow.
- D. The location, exterior horizontal dimensions and proposed height of all buildings with reference to property lines and public rights of way.
- E. All public and private easements.
- F. All existing and/or proposed entrance and exit curb cuts, deceleration and acceleration lanes, traffic island and other devices.
- G. All existing buildings or portions of buildings that will remain.
- H. All pedestrian walkways or sidewalks (existing or proposed).
- I. Location of fences and signs, with appropriate dimensional information.
- J. Location and dimensions of all parking areas, number of parking stalls and all driving or maneuvering lanes, parking formula used, (typical parking stalls may be indicated to eliminate repetition of all stalls).
- K. General use of all buildings.
- L. Vicinity map (does not have to be drawn to scale).
- M. Landscaping plan.
- N. Indicate adjoining properties as to significant buildings, parking, access drives, vacant, zoning, etc.
- O. Show any adjoining public improvements, existing or proposed, rights of way, easements and drainageways.
- P. Legend indicating appropriate information on the plan, i.e., acreage, density, G.L.A., etc.

- Q. Existing and proposed contours at two foot (2') intervals.
- R. Legal description.
- S. Lighting standards, location and height.
- T. Anticipated future expansions, if known.
- U. Approximate schedule for development.
- V. Designation of all public or private street names and right of way, easement and mat widths and designation of private street by including "(private)" immediately following street name. (Ord. 82-46; 86-106)

14-5-104: CRITERIA FOR REVIEW: A development plan shall be reviewed using the criteria listed below. No development plan shall be approved unless the plan complies with all the requirements of Article 5, is consistent with the intent and purpose of the Chapter and is compatible with the land uses surrounding the site.

- A. Does the proposed development have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood of the proposed development?
- B. Does the proposed development provide for adequate light and air both on and off the site?
- C. Are the height, area, setbacks and bulk of the structures plus the landscaping appropriate to the development, the neighborhood and the community?
- D. Are the ingress/egress points, the internal traffic circulation, off-street parking facilities, loading and service areas and pedestrian ways designed so as to promote safety, convenience and ease of traffic flow both on and off the site?
- E. Does the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?
- F. Does the proposed development promote the conservation of the existing property values of adjacent areas and the stabilization of surrounding residential neighborhoods?
- G. Does the development plan show how any

- G) potentially poor use to use relationships (commercial use adjacent to single-family homes) will be mitigated?
- H. Is the proposed development plan in conformance with all elements of the City's Comprehensive Plan? (Ord. 82-46)

14-5-105: PROCEDURE FOR REVIEW: The procedure for review of development plans is specified in each zone, and shall be further detailed by Planning Department policy as needed. (Ord. 82-46)

14-5-106: ADDITIONAL INFORMATION:

- A. The following zones or actions require a development plan and time of submittal may vary:

Zone	With rezoning request or establishment of zone	(Later in process)
PUD	Optional	X
MHP	Optional	X
MHS	Optional	X
OR	Yes	
OC	Optional	X
PBC-1	Optional	X
PBC-2	Optional	X
PIP-1	Optional	X
PIP-2	Optional	X
SU	Optional	X
RVP	Optional	X
SP	Yes	
Conditional Use	Yes	
Use Variance	Yes	
H	Yes (See Part 27 of Article 3 of this Chapter)	X
HS	Optional	X

- B. The Planning Commission or City Council may require a development plan with any zone district that also is zoned "P" (Planned Provisional).
- C. Although not required, it is suggested that all applicants of a proposed development plan meet with the Planning Department staff prior to submittal for general review comments.

- D. The Planning Director may waive specific submittal requirements based on written justification by the applicant. This request should be made prior to actual submittal.
- E. Additional requirements and information may be required for a particular zone district - see zone district of interest in this Chapter.
- F. Development plans may be approved by the Planning Director, the Planning Commission or the City Council depending on the particular requirements of the ordinance or a motion by the Planning Commission or City Council. (Ord. 82-46; Ord. 83-229)

CHAPTER 14 ZONING

ARTICLE 6 CONDITIONAL USES

SECTION:

14-6-101: Description and Purpose
 14-6-102: Authorization
 14-6-103: Conditions to Authorization
 14-6-104: Application; Development Plan
 14-6-105: Processing
 14-6-106: Amendment to Approved Development Plan

14-6-101: DESCRIPTION AND PURPOSE: The development and administration of a comprehensive zoning ordinance is based upon the division of the City into zone districts within which districts the use of land and buildings and the bulk and position of buildings and structures in relation to the land are relatively uniform. It is recognized, however, that there are occasions when in addition to the principal permitted uses, special uses, hereinafter referred to as conditional uses, because of their unique characteristics and because of the uniqueness of their proposed location, may be allowed after careful consideration of the impact of the particular uses upon the neighborhood and the public facilities therein. (Ord. 80-131)

14-6-102: AUTHORIZATION: The City Council may, by resolution, grant a conditional use and so authorize the proper zoning official to amend the official zoning map in accordance with the provisions of this Chapter after recommendation and at least one public hearing by the Planning Commission. (Ord. 80-131)

14-6-103: CONDITIONS TO AUTHORIZATION: No conditional use shall be granted by the City Council until the City Council first finds:

- A. Surrounding Neighborhood. That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.
- B. Intent of Chapter. That the conditional use is consistent with the intent and purpose of this

B) Chapter to promote public health, safety and general welfare.

C. Comprehensive Plan. That the conditional use is in keeping with the Comprehensive Plan of the City. (Ord. 80-131; Ord. 82-247)

14-6-104: APPLICATION; DEVELOPMENT PLAN:

An application for conditional use shall be filed with the Planning Department on a form provided for that purpose. The application shall be accompanied by a development plan as described in Article 5. The approved conditional use and development plan shall be binding on the property until officially amended.

Except as otherwise recommended by the Planning Commission, the development of conditional uses shall conform to the applicable regulations of the district in which it is to be located. The provisions for appeals from the Planning Commission as provided in this Chapter shall be applicable to conditional uses. (Ord. 80-131)

14-6-105: PROCESSING: Same as zone change request, although approval by City Council shall be by resolution and require one reading. (Ord. 80-131)

14-6-106: AMENDMENT TO APPROVED DEVELOPMENT PLAN:

- A. The Planning Director may approve minor amendments in keeping with the intent of the original approval, or refer the amended plan to the Planning Commission at the regularly scheduled Planning Commission meeting or informal Planning Commission meeting. The process does not require a public hearing or processing to City Council, although if the Planning Commission finds the requested amendment to be a significant change to the intent of the original approval, the Commission may call for a complete new submittal requiring processing in the same fashion as the original conditional use request. (Ord. 80-131)

CHAPTER 14 ZONING

ARTICLE 7 USE VARIANCE

SECTION:

- 14-7-101: Intent and Purpose
- 14-7-102: Nonuse Variances
- 14-7-103: Criteria for Granting a Nonuse Variance
- 14-7-104: Guidelines for Review of Nonuse Variances
- 14-7-105: Conditions of Approval
- 14-7-106: Application for Requested Nonuse Variance
- 14-7-107: Use Variances
- 14-7-108: Criteria for Granting a Use Variance
- 14-7-109: Application for Requested Use Variance
- 14-7-110: Termination of Right
- 14-7-111: Comprehensive Plan

14-7-101: INTENT AND PURPOSE: In establishing the provisions of Article 7, the Colorado Springs City Council hereby finds and determines that there may be exceptional or extraordinary circumstances or conditions which are applicable to properties within the City, or to the intended uses of properties within the City that do not generally apply to the property or class of uses in the same zone, and such that denial of an application for relief would result in an inability to reasonably utilize property. Therefore it is necessary to provide for such extraordinary relief in the form of nonuse variances and use variances. In reviewing such applications for variances, the burden shall be upon the applicant to meet the criteria set forth in this Article 7. (Ord. 85-136)

14-7-102: NONUSE VARIANCES: Subject to the requirements of Chapter 14 and this Article 7, nonuse variances, as defined herein, are hereby authorized. A nonuse variance is defined as authorization to deviate from restrictions which relate to a permitted use, rather than a limitation on the use itself, such that the essential character of the use remains the same. Examples of dimensional and other zoning ordinance requirements that may be the subject of nonuse variances include, but are not limited to, restrictions on the bulk, height and size of buildings, or extent of lot coverage, or on the placement of buildings and structures on the lot with respect to required yard sizes; or the physical characteristics of the land itself, including minimum lot area required

for a permitted use and setbacks; the required width of the lot or its frontage on the street, or limitations on the time prescribed by Chapter 14 for the substantial completion of the construction of the structure; or restrictions on the number of off-street parking spaces required or the location and number of parking areas in relation to a structure to which they are an accessory, or the size of the spaces; or for the expansion of nonconforming structures; or for any other similar restriction to the right to develop or use land for a purpose or in a manner otherwise expressly provided by law, but which still insures that the essential permitted use remains the same. (Ord. 85-136)

14-7-103: CRITERIA FOR GRANTING A NONUSE VARIANCE: The following criteria must be met in order for a nonuse variance to be granted:

- A. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and
- B. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief; and
- C. That the granting of the variance will not have an adverse impact upon surrounding properties. (Ord. 85-136)

14-7-104: GUIDELINES FOR REVIEW OF NONUSE VARIANCES: As a guide to applying the above criteria for nonuse variance applications, where applicable, the fact-finder may, but is not required to consider any or all of the following circumstances which have been established by the evidence in determining whether the applicable criteria have been met:

- A. Extraordinary or Exceptional Physical Conditions:
 - 1. The physical conditions of the property shall

- A1) not be conditions general to the neighborhood or surrounding properties.

2. The unique physical conditions of the property may be its size, shape, location, topography, soils; or

3. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions; or

4. The unique physical conditions may be certain onsite or offsite environmental features which may positively or negatively affect the property in question, including but not limited to adjacent land uses, traffic, noise views and location of significant natural, architectural or historic features.

- B. No Reasonable Use:

1. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations.

2. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district.

3. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.

4. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.

5. Knowledge, or lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property.

- C. No Adverse Impact:

1. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties.

- C) 2. The granting of a variance shall not be inconsistent with any plans adopted by the City.

3. The granting of a variance shall not weaken the general purpose of the Zoning Ordinance or its regulations.

4. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property. (Ord. 85-136)

14-7-105: CONDITIONS OF APPROVAL:

- A. Special conditions may be imposed upon nonuse variance approvals in order to alleviate or mitigate potential adverse impacts.
- B. Conditions must relate to the property and may, in addition, relate to specific persons or organizations which have a direct association with the use of the property as contemplated by the requested variance. (Ord. 85-136)

14-7-106: APPLICATION FOR REQUESTED

NONUSE VARIANCE: Any owner of record, or authorized agent for said owner, whose authorization shall be made a part of the application record, may submit an application for a nonuse variance to the Planning Department for processing. A submitted complete application shall include a site sketch. (Ord. 85-136)

14-7-107: USE VARIANCE: Subject to the requirements of Chapter 14 and this Article 7, use variances, as defined herein, are hereby authorized. A use variance is defined as authorization to deviate from the list of permitted uses listed in a zoning district. The City Council may impose reasonable provisions or restrictions as it may deem appropriate or necessary. (Ord. 85-136)

14-7-108: CRITERIA FOR GRANTING A USE VARIANCE: The following criteria must be met in order for a use variance to be granted:

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so

- A) that a denial of the petition would result in undue property loss; and
- B. That such variance is necessary for the preservation and enjoyment of a property right of the petitioner; and also,
- C. That such variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property. (Ord. 85-136)

right. The property affected thereby shall be subject to all other provisions and regulations of this Chapter applicable to the zone in which such property is classified by this Chapter at the time of such termination. (Ord. 86-214)

14-7-111: COMPREHENSIVE PLAN: The Comprehensive Plan and other adopted plans, if applicable, shall be considered and addressed in applying the provisions of this Article 7. (Ord. 85-136)

14-7-109: APPLICATION FOR REQUESTED USE VARIANCE:

- A. Any owner of record or authorized agent for said owner may submit an application for a use variance to the Planning Department for processing. A submitted complete application shall include a development plan as described in Article 5.
- B. Development Plan: The submitted and approved development plan for the requested use variance shall be binding on the property until officially amended.
- C. Amendments to approved Development Plan: All requested amendments to the originally approved use variance development plan shall be processed in the same manner as the original use variance request.
- D. Any variance granted pursuant to this Article shall expire within six (6) months from date of granting by the hearing officer or by the City Council on appeal if action is not taken thereon within said time, unless said time is extended for good cause shown by the Hearing Officer or City Council. For purposes of this subsection, action means obtaining a building permit pursuant to the granting of the variance, or if a building permit is not required, the right which is granted pursuant to the variance is put to use pursuant to the variance. (Ord. 85-136; Ord. 86-214)

14-7-110: TERMINATION OF RIGHT: Except as provided in Section 14-7-109D discontinuance of the exercise of any right heretofore or hereafter granted by any variance for a continuous period of twelve (12) months shall terminate such

CHAPTER 14 ZONING

ARTICLE 8 PARKING

SECTION:

- 14-8-101: Purpose
- 14-8-102: General Provisions, Restrictions and Prohibitions
- 14-8-103: Parking Requirements by Use
- 14-8-104: Parking Lot Landscape Requirements
- 14-8-105: Parking Exempt Zone

14-8-101: **PURPOSE:** The purpose of this Article is to ensure the provision and design of off-street parking areas that: are safe for pedestrians and motorists; minimize potential negative impacts to adjacent properties; and reduce the reliance for on-street parking so that safe and efficient vehicular travel on the streets is promoted. (Ord. 86-124)

14-8-102: **GENERAL PROVISIONS, RESTRICTIONS AND PROHIBITIONS:** The following provisions apply in all zones, except as otherwise specifically mentioned.

- A. **Conformance Required:** Off-street parking and maneuvering areas in conformance with this Article shall be provided for any building constructed, for any building that is expanded, or any change in use that would result in additional parking spaces being required.
- B. **Plans Required:** Whenever parking is required under the provisions of this Article, or whenever existing parking is changed or redesigned, plans drawn to scale shall be submitted to the Planning Department prior to construction indicating conformance with this Article.
- C. **Continuation:** Off-street parking and maneuvering areas lawfully existing at the time this Article became effective may be continued, except as otherwise provided in this Article.¹ Off-street parking and maneuvering areas in conformance with this Article shall be maintained with the use to which they relate so long as such use remains.

- D. **Paving of Unpaved Areas:** The Planning Director may require the paving of lawfully existing unpaved parking, maneuvering or access areas or automobile display or storage areas for any use except a one-family residence. The requirement to pave shall be made after evaluating such factors as the character of the neighborhood and the amount and type of traffic generated by the use. The Planning Director shall find and determine that the use of the unpaved area causes air pollution due to blowing dust or adverse drainage conditions or that the use constitutes a nuisance to the residents or occupants of the neighborhood. Paving shall be provided as required by Section 14-8-102E12.

E. Design Guidelines:

1. **Location:** All required off-street parking spaces shall be located on the same lot as the use. Access or maneuvering areas may be located on adjacent lot(s) as long as a recorded document is provided for common use and maintenance. In commercial centers either the required parking spaces shall be located on the same lot as the use as required above, or all parking, access, and maneuvering areas shall be available for all users of the commercial center through the use of easement(s) or tract(s). The easement or tract shall be established by a recorded statement on the plat that the easement or tract is to be used and maintained by all the lot owners within the commercial center. An easement may also be established pursuant to a grant of easement or other appropriate recorded document. For attached dwelling units in the PUD zone parking, access, and maneuvering areas may be provided in a tract. The tract shall be established by the recorded plat, with a statement on the plat that the tract is to be used and maintained by all the lot owners within the PUD zone.

2. **Front Yards:** No portion of any required front yard shall be included as a part of the off-street parking or maneuvering area in the A, R, R-1 9000, R-1 6000, R-2 or OR Zones or in any

1. This Article became effective on 4th day of September, 1986, pursuant to Ordinance No. 86-124 as to the property located within the City upon that date.

- E2) single family or duplex project in any zone except for religious institutions which are regulated by requirements in individual zone districts. Driveways may cross the required front yards to provide access for off-street parking or off-street loading requirements.

3. Public Right-of-Way: Parking or maneuvering areas located within the public rights-of-way shall not be used to meet off-street parking or off-street loading requirements.

4. Backing Across Property Lines: No parking space shall be permitted where the unparking vehicle must be backed across any property line adjacent to a public right-of-way except for one-family or two-family residences.

5. Parking Dimensions: Dimensions of parking or maneuvering areas shall be provided as shown on Figure 1 of this Article.

6. Parking Space Overhang: The paved depth of parking spaces may be decreased by the overhang dimensions indicated in Figure 1 of this Article, providing that the following conditions are met:

a. No sidewalk shall be decreased to less than four feet (4') in width by use of an overhang. No overhang is permitted into a sidewalk that is located within a public right-of-way.

b. No required landscaped area shall be reduced by use of an overhang.

7. Parking Structure or Garage: Parking or maneuvering areas located inside a structure or garage shall be provided as shown on Figure 1 of this Article.

8. Compact Spaces: A maximum of forty percent (40%) of all provided parking spaces may be compact spaces. Dimensions for compact spaces are shown on Figure 1 of this Article. Compact spaces shall be designated as such.

9. Handicapped Parking: Handicapped parking spaces shall be provided in accordance with the schedule listed below. The minimum width of a handicapped space shall be twelve feet (12'), or nine feet (9') if an additional adjacent delineated access aisle at least three feet (3')

- E9) wide is provided along one side; spaces nine feet (9') in width may share a common access aisle between two (2) spaces. The depth of a handicapped space shall be provided as shown on Figure 1 of this Article. Each handicapped space shall be designated by a sign showing the international disabled symbol of a wheelchair. Each sign shall be no smaller than one foot by one foot (1' x 1') and shall be located at the end of the space at a height between four feet (4') and seven feet (7'). The sign may either be wall mounted or freestanding. Handicapped spaces shall be located so as to provide convenient access to a primary accessible building entrance unobstructed by curbs or other obstacles to wheelchairs.

a. Handicapped parking for residential uses shall be provided at the rate of one space for each dwelling unit that is designed for occupancy by the physically handicapped.

b. Handicapped parking spaces shall be provided for all uses other than residential at the following rate:

Number of Parking Spaces Provided	Number of Handicapped Spaces Required
1 - 24	0
25 - 74	1
75 - 99	2
100 - 199	3
200 - 299	4
300 - 399	5
400 and above	6 + 1 for each 200 additional parking spaces provided

c. Handicapped parking spaces required by this Article shall count toward fulfilling off-street parking requirements.

10. Driveway Intersections with Public Streets: Location, design and width of any driveway that intersects with a public street shall be subject to the specifications as outlined in the Department of Public Works/Traffic Engineering Division Policy and Design Standards.

11. Driveway Widths: Any driveway providing access to a parking area for a use other than a one-family or two-family residence shall be a minimum of twenty feet (20') in width where two (2) way traffic is allowed and a minimum of twelve feet (12') in width where one-way traffic is allowed.

- E) 12. Paving: Except for parking areas provided for one-family residences, the surface of all parking spaces, drives, aisles, maneuvering and automobile display or storage areas shall be paved.

13. Perimeter Enclosures: Except for parking areas provided for one-family or two-family residences the perimeter of all parking, maneuvering, driveways and automobile display or storage areas shall be enclosed by a permanent wall, fence, curb, wheel or bumper barrier. The barrier must be a minimum of four inches (4") in height. A discontinuous barrier may be used as long as the separation between barriers does not exceed four feet (4').

14. Striping: Except for parking spaces for one-family or two-family residences, all parking spaces shall be clearly delineated or striped and the striping shall be maintained so it is visible.

15. Directional Signs: Directional signs for parking, maneuvering or drive areas are subject to the provisions of Section 14-9-103K.

16. Lighting: Lights used for illumination of parking areas and driveways shall be directed away from adjacent properties and rights-of-way so as to confine direct rays to the site.

17. Off-Street Loading: For any industrial use, off-street loading spaces and maneuvering areas shall be provided on the same lot in accordance with the schedule listed below. Maneuvering or access areas may be located on adjacent lot(s) as long as a recorded document is provided for common use and maintenance.

<u>Square footage of building</u>	<u>Number of spaces</u>
up to 3,000	0
3,001 to 20,000	1
20,001 to 80,000	2
80,001 to 140,000	3
for each additional 100,000	1 additional

The minimum dimensions of an off-street loading space are twelve feet wide by forty feet long (12' x 40') with a minimum vertical clearance of fourteen feet (14'). A minimum maneuvering aisle width of forty feet (40') shall be provided behind the off-street loading space.

18. Drive-Through Stacking Lanes: Automobile stacking lanes for drive-through uses shall be provided according to the following:

- E18) a. Restaurants shall provide ninety feet (90') behind each order and pick-up window, or if the functions are separated, thirty feet (30') behind an order board, and sixty feet (60') behind the pick-up window.

b. Financial institutions and/or financial transactions facilities (i.e. bill payment windows) shall provide seventy feet (70') behind each window or transfer facility. Where more than one window or transfer facility is provided, the stacking lanes may be distributed in twenty foot (20') increments among the various lanes as long as no lane is less than thirty feet (30') in length.

c. A car wash shall provide forty feet (40') behind each bay or stall.

d. The minimum width of a drive-through lane shall be eight feet (8').

e. Required drive-through stacking lanes shall not intersect with pedestrian access to a public entrance of a building.

f. Each drive-through lane shall be striped, marked or otherwise distinctly delineated.

g. Driveways in conformance with Section 14-8-102E11 shall be provided to all stacking lanes.

19. Commercial Centers: In addition to retail uses, a commercial center may include offices, restaurants, theatres, automobile services or other uses as permitted by the zone district. If common parking, access and maneuvering agreements are provided as stated by Section 14-8-102E1, then the parking requirement shall be as required by Section 14-8-103A13 regardless of the mix, location or number of different uses within the boundaries of the commercial center.

20. Tandem Parking: A parking space that is blocked by a tandem parking space shall not count toward fulfilling off-street parking requirements. A tandem parking space is a parking space located so that it abuts a second parking space such that vehicular access to that second space can only be made through the abutting (tandem) space.

21. Repair Bays: Repair bays within an automobile service station, repair garage or other

E21) similar use shall not be counted as part of the required off-street parking spaces.

22. Display or Storage Areas: Required parking, maneuvering, or access areas for automobile sales uses shall not be used for display or storage of automobiles. Display or storage areas shall be delineated on required plans. For determining compliance with Section 14-8-104A every two hundred fifty (250) square feet of area used for display or storage shall represent one parking space. Striping shall not be required for automobile display or storage areas.

23. Self-Storage or Mini Warehouse Facilities: A driveway aisle for mini-warehouse or self-storage facilities shall be a minimum width of twenty four feet (24'). A driveway aisle where access to storage units is only on one side of the aisle

E23) may be twenty feet (20') in width. No off-street parking spaces are required for these facilities. Off-street parking as indicated in Section 14-8-103 shall be provided for any accessory use (i.e. office, dwelling) of the mini-warehouse or self-storage facility. (Ord. 86-124; Ord. 86-229)

14-8-103: PARKING REQUIREMENTS BY USE:

A. The table below shows the minimum number of off-street parking spaces to be provided for a use. Square feet shall mean gross floor area. The total number of required off-street parking spaces for any use shall be obtained by rounding up to the next whole number (example: where 4.20 parking spaces are required, 5 parking spaces shall be provided).

Use	Minimum off-street parking spaces required
RESIDENTIAL	
1. Detached one-dwelling	1/dwelling unit
2. Attached dwelling units:	
a. Studio or efficiency	1.1/dwelling unit
b. 1 bedroom	1.5/dwelling unit
c. 2 bedroom	1.7/dwelling unit
d. 3 or more bedrooms	2.0/dwelling unit
e. Elderly (60 and over)	0.6/dwelling unit
3. Boarding house, dormitory, fraternity, sorority, or other communal living arrangement where common kitchen facilities serve the occupants	0.5/bed
4. Mobile home park or recreational vehicle park	1/mobile home space or recreational vehicle space
5. Human service establishment	1 plus 1/8 beds
COMMERCIAL	
6. Automobile service or repair	1/200 square feet
7. Automobile sales	1/400 square feet
8. Bank, savings & loan, credit union	1/350 square feet
9. Barber shop, beauty salon	1.5/chair or station
10. Bar, tavern, nightclub	1/100 square feet
11. Business park	1/500 square feet

A) Parking Requirement Schedule (cont.)

12. Car wash	1/bay or stall
13. Commercial centers:	
Neighborhood (less than 10 acres)	1/250 square feet
Community (10-30 acres)	1/300 square feet
Regional (greater than 30 acres)	1/300 square feet
(see definitions in Section 14-2-102C)	
14. Hotel, motel, bed & breakfast inn	1/2 guest rooms or suites
15. Lumberyard, nursery	1/600 square feet plus 1/1,000 square feet of outdoor area devoted to display and storage.
16. Mortuary, funeral home	1/4 seats in main assembly room
17. Office, administrative, business or professional	1/400 square feet
18. Restaurant	1/100 square feet
19. Retail, general (i.e. department store, market, etc.)	1/300 square feet
20. Retail, furniture, appliance or building supply	1/600 square feet

INDUSTRIAL

21. Manufacturing	1/750 square feet
22. Warehouse	1/1,000 square feet

HEALTH SERVICES

23. Convalescent and nursing home	1/5 beds
24. Hospital	2/bed
25. Medical or dental offices, clinics, veterinary clinics, emergency clinics and health related offices (i.e. psychologist, optometrist, etc.)	1/200 square feet

ENTERTAINMENT AND RECREATION

26. Amusement park	30/acre
27. Arcade, gameroom	1/300 square feet
28. Bowling alley, pool hall	4/lane, 2/table
29. Commercial stable	1/5 stalls
30. Golf course	4/hole

A) Parking Requirement Schedule (cont.)

31. Golf driving range	1/tee
32. Miniature golf	1/hole
33. Race track	1/4 seats
34. Shooting range	1/firing lane
35. Skating rink	1/150 square feet
36. Stadium, sports arena	1/4 seats
37. Tennis, handball or racquetball facilities	3/court
38. Theatre	1/4 seats

EDUCATIONAL INSTITUTIONS

39. Elementary or junior high school	2/classroom
40. Senior high school	1/4 students
41. College	0.5/faculty member and employee plus 1/6 students

MISCELLANEOUS

42. Auditorium or assembly hall	1/4 seats, if no fixed seats 1/150 square feet
43. Church, religious institution	1/4 seats within main auditorium, if no fixed seats 1/150 square feet
44. Day care center, pre-school	1/400 square feet
45. Health club	1/150 square feet
46. Library	1/600 square feet
47. Museum	1/1,000 square feet
48. Wildlife refuge	1/5 acres

B. Other Uses: In the case of a use not specifically mentioned, the requirement for off-street parking spaces for a use which is mentioned and similar shall be determined by the Planning Director and shall apply.

C. Mixed Uses: In the case of mixed uses (i.e. restaurant and hotel) and uses with two (2) or more different functional areas (i.e. warehouse

C) with office, dining area within a convenience food store), the total requirement for off-street parking spaces shall be the sum of the requirements for each of the various uses.

D. Where parking is determined by the number of seats and continuous seating such as pews or benches is provided, every twenty inches (20") of bench or pew shall represent one seat. (Ord. 86-124)

14-8-104: **PARKING LOT LANDSCAPE REQUIREMENTS:**

- A. Required Trees: One tree of a type suitable for parking lots shall be provided for every fifteen (15) open (not in a garage) vehicular parking spaces in parking lots with fifteen (15) or more spaces. The tree types and minimum planter sizes shall be consistent with a "Landscape Policy Manual" prepared by the City Planning Department. The required trees may be clustered but shall be located to divide and break up expanses of paving and long rows of parking spaces and to create a canopy effect in the parking lot. In order to be considered within the parking lot, the trees must be located in planters that are bounded on at least three (3) sides by parking lot paving. This means that only trees in landscaped "islands" or "fingers" can count toward the parking lot tree requirement. Planters shall be of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles.

Administrative Relief of the requirements of this sub-section may be requested under Article 19.

- B. Required Screening: Open parking spaces--except in one-family and two-family residential projects in any zone district shall be screened from view from adjacent properties and streets to an eventual minimum height of three feet (3') by the use of berms and/or plantings. A minimum of two-thirds ($\frac{2}{3}$) of the affected street frontage or property boundary--not counting intersecting driveways--must have the required screen. Structures such as decorative walls or fences may be approved through an Administrative Relief request if the Zoning Administrator (or other Planning Division designee) finds that:

1. The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees or

2. The total use of berms and/or plantings is not physically feasible, or

3. The structures attractively complement the use of berms and/or plantings.

The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable

- B) grades for screening areas--such as sodded berms and planting beds--shall be consistent with a "Landscape Policy Manual" prepared by the City Planning Department.

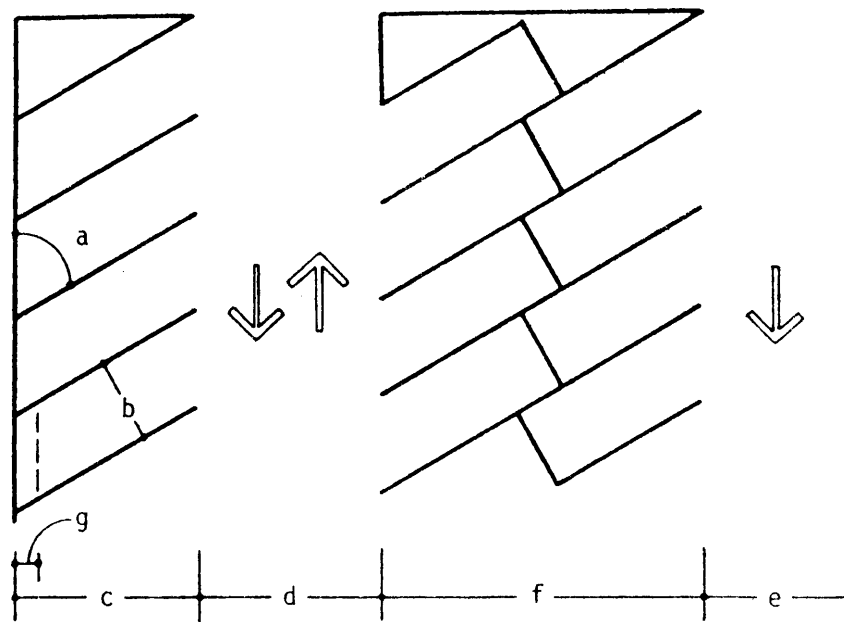
Administrative Relief of the requirements of this subsection may be requested under Article 19. (Ord. 86-124)

14-8-105: **PARKING EXEMPT ZONE:** The following described areas are excepted and excluded from off-street parking requirements:

- A. Central Business District: Bounded on the north by Bijou Street, the east by the alley between Weber Street and Wahsatch Avenue, the south by Cucharras Street and the west by the railroad right of way (see Figure 2).
- B. Old Colorado City District: The area bounded on the north by the south line of West Pikes Peak Avenue, on the south by the north line of West Cucharras Street, on the east by the west line of South 24th Street and on the west by the east line of 26th Street (see Figure 2).

(See following pages for Figures)

Parking And Maneuvering Dimensions

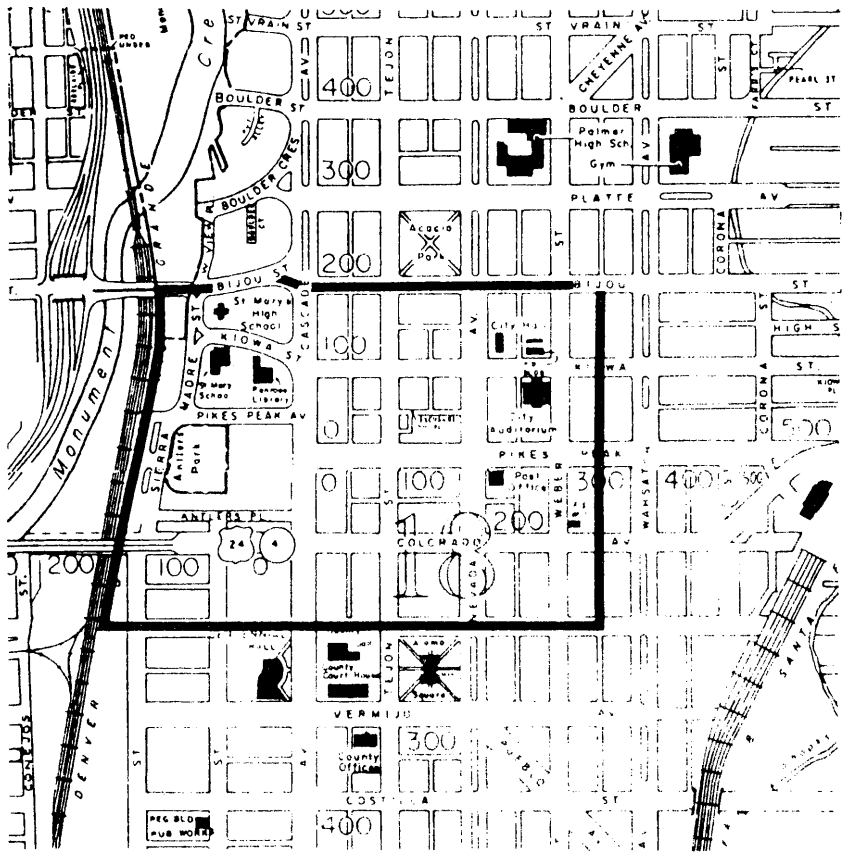


a	b	c	d	e	f	g	compact space			
parking angle (degrees)	width of space	depth of space	width of aisle: two-way	width of aisle: one-way	depth of interlocking spaces	overhang	b	c	f	g
0	9	22	20	12	18	0	8	20	16	0
30	9	17	*	12	26	1.5	8	15	23	1.5
45	9	19	20	12	32	1.5	8	17	28.5	1.5
60	9	20	20	16	35.5	2	8	18	31.5	2
75	9	19.5	22	18	37	2	8	17.5	33	2
90	9	18	24	24	36	2	8	16	32	2

b through g are shown in feet

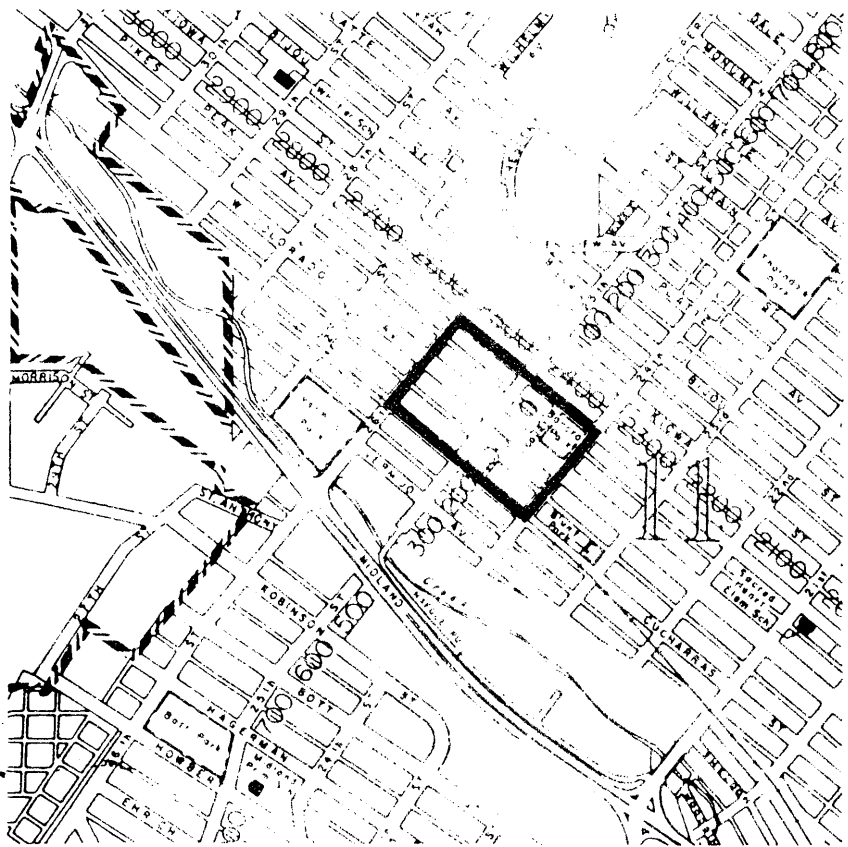
* not allowable

Figure 1



PARKING EXEMPT
ZONE

"Central Business
District"



"Old Colorado City
District"

Figure 2

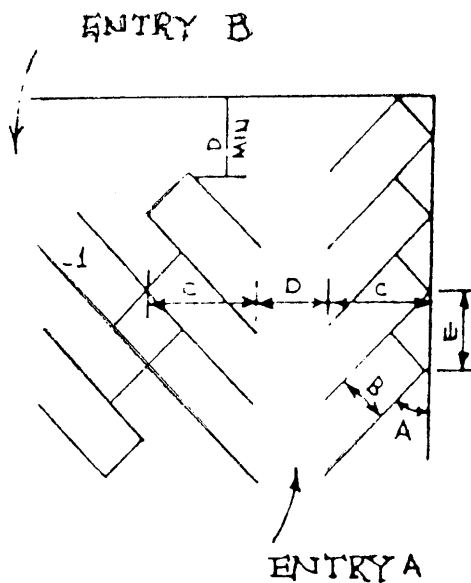
- C) standards including parking angle and space dimensions that must be complied with are hereby incorporated into this Code and appear at the end of this Chapter.
- D. Location. The parking area must be provided on the same lot as the principal buildings, except when off-street parking is required in a C-6 zone, in which case the parking area may be within five hundred feet (500') of the principal building but not separated by an arterial street. When the required off-street parking space is provided on a separate lot from the main building, there shall be recorded in the office of the City Clerk a covenant by the owner of such lot that such parking spaces will be maintained as long as such building is maintained.
- E. Existing Parking Area. Off-street parking space being maintained in any of the zones in connection with any existing structures on the effective date of this Chapter shall thereafter be maintained so long as such building remains, unless an equivalent number of such spaces are provided conforming to the requirements of this Section; provided, however, that this regulation shall not require the maintenance of more automobile parking space than is herein required for a new building.
- F. Use of Required Off-Street Parking by Another Building. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this Chapter shall be included as a part of an off-street parking space similarly required for another building or use, unless the type of structure indicates that the periods of usage of such structure will not be simultaneous with each other.
- G. Free Parking Space Required. With the exception of the off-street parking exempted area as set forth in the section above, and the Municipal Airport, the minimum number of off-street parking spaces required by this Article shall be provided without direct charge to the users of the facilities providing such parking spaces.

The providers of such minimum off-street parking spaces shall have the right to reasonably control the users thereof by means

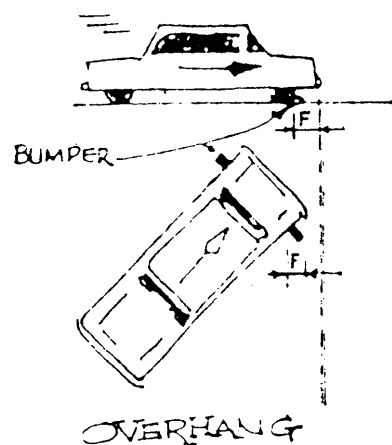
- G) which may include, but not be limited to, restricting all parking to the users of the facility providing such parking spaces; parking lot attendants; control gates; tow-away areas; employee, tenant and staff restricted areas; customer and visitor restricted areas; and imposing reasonable time limitations on users other than tenants, employees and staff. None of the above control means shall be applied to defeat the intent of this Section. Direct charges may be made to users who exceed minimum time limits.
- H. No parking space shall be approved where the unparking vehicle must be backed across any property line except in single-family and two-family areas, nor for any parking space that is blocked off by another vehicle.
- I. Design Standards. The stall length of required parking spaces may be decreased by the dimensions indicated in the table on the following page, providing that the following conditions are met:
 - 1. Parking spaces so reduced shall be located at the perimeter of the parking area.
 - 2. No sidewalk shall be decreased to less than four feet (4') in width by permitting the overhang.
 - 3. No required landscaped area shall be reduced by permitting the overhang.
- J. Except for parking areas provided for one and two-family dwellings, the surface of all required parking spaces, drives and aisles, shall be paved with asphalt, concrete or similar permanent surfacing. (Ord. 80-131; Ord. 81-102; Ord. 85-11; Ord. 86-39)

(see following pages for Parking Standards and maps)

Typical PARKING layout



NOTE: SPACE IS CONTINGENT UPON ENTRY B



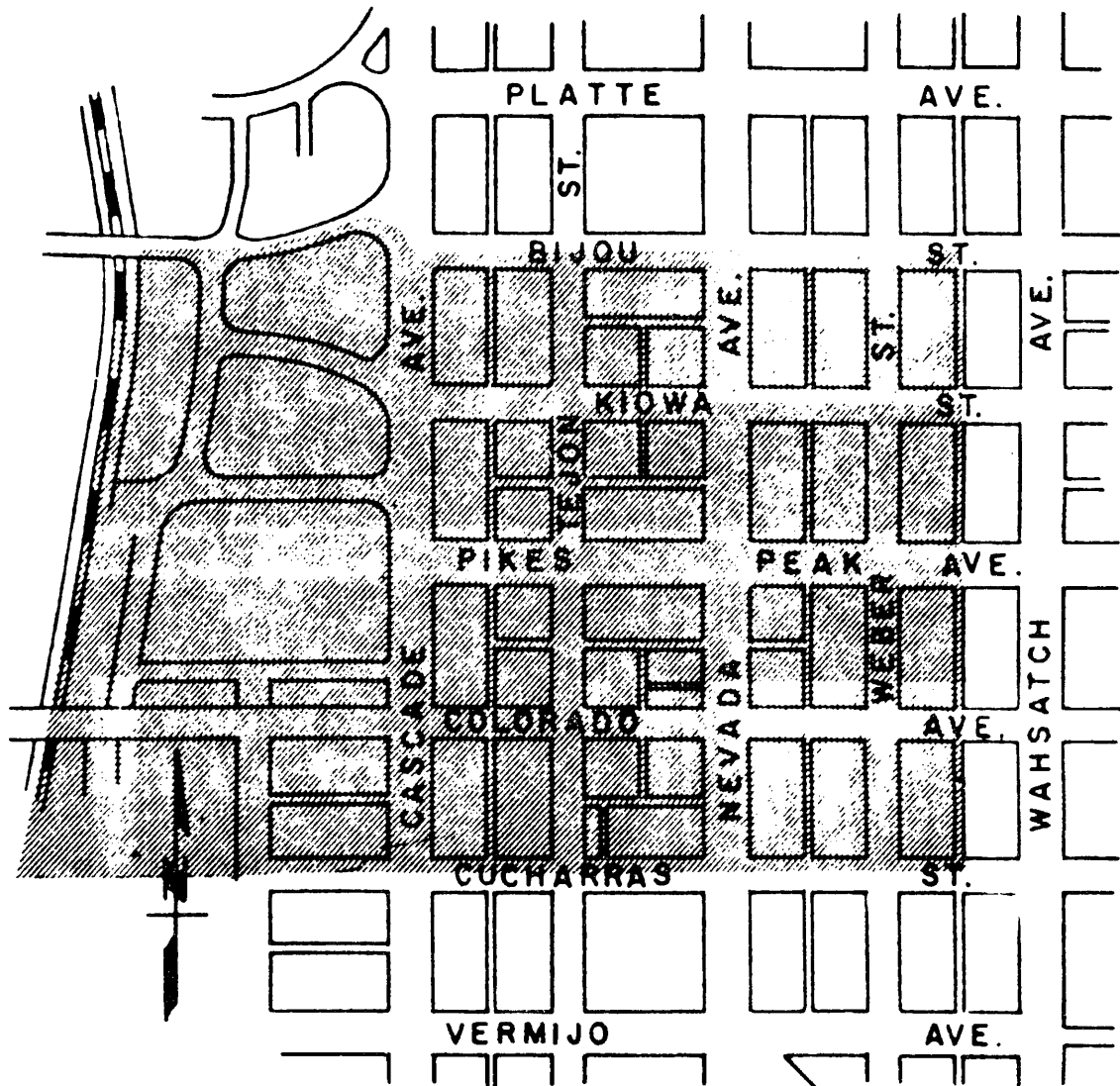
Note: Overhang dimensions are intended to indicate possible location from parking area edge for location of bumpers.

PARKING STANDARD

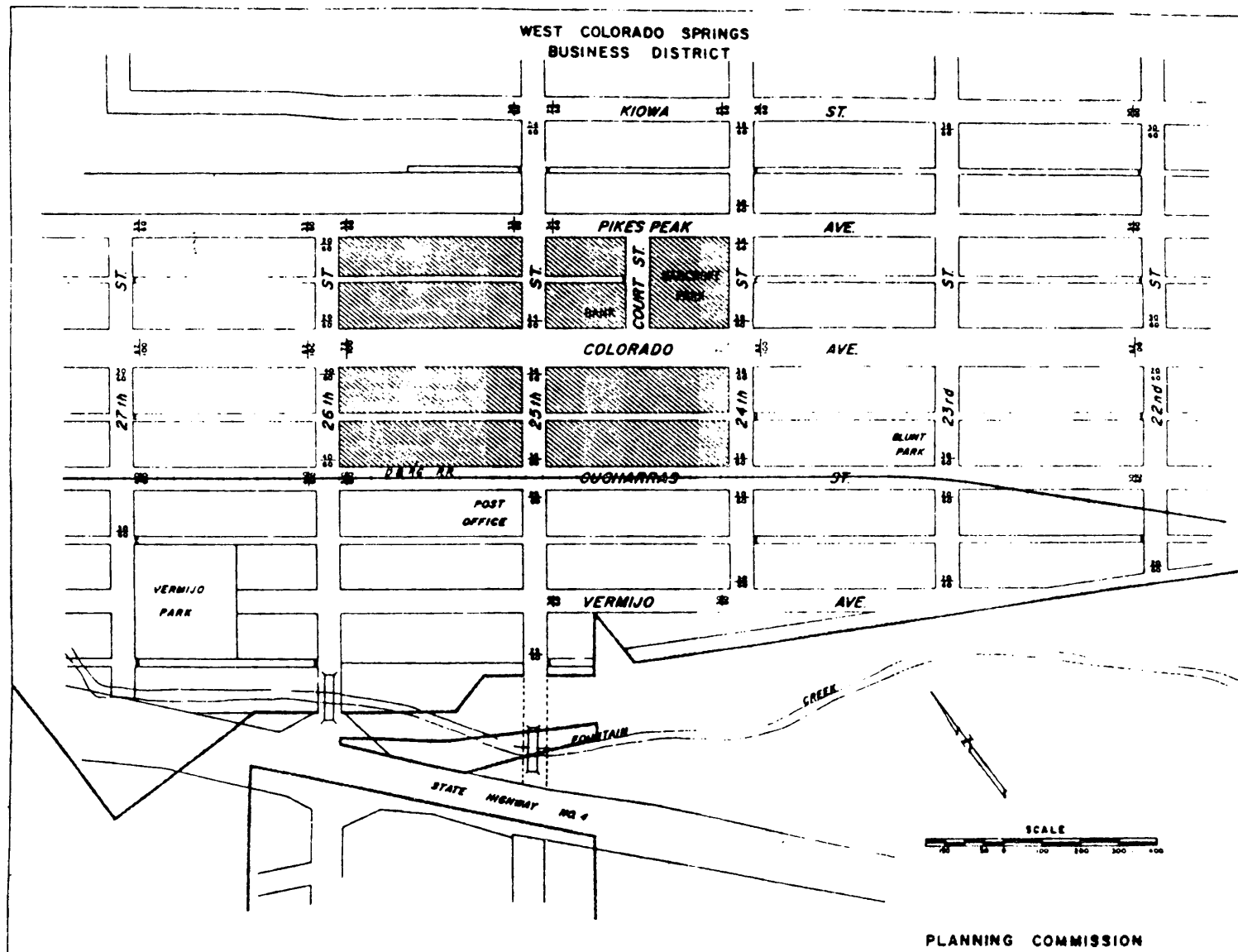
PARKING ANGLE SPACE DIMENSIONS

A Parking Angle	B Stall Width	C Stall To Curb	D Aisle Width	E Curb Length	F Over- hang
0°	9	9.0	12	23	0
20°	9	15.0	11	26.3	0.7
30°	9	17.3	11	18	1.0
40°	9	19.1	12	14	1.3
45°	9	19.8	13	12.7	1.4
50°	9	20.4	12	11.7	1.5
60°	9	21	18	10.4	1.7
70°	9	21.0	19	9.6	1.9
80°	9	20.3	24	9.1	2.0
90°	9	19	24	9	2.0

All dimensions are to nearest tenth of a foot.



High Rise Zone and Off-Street
Parking Exempted Area



14-8-106: PARKING LOT LANDSCAPE REQUIREMENTS:

- A. Required Trees: One tree of a type suitable for parking lots shall be provided for every fifteen (15) open (not in a garage) vehicular parking stalls in parking lots with fifteen (15) or more stalls. The tree types and minimum planter sizes shall be consistent with a "Landscape Policy Manual" prepared by the City Planning Department. The required trees may be clustered but shall be located to divide and break up expanses of paving and long rows of parking stalls and to create a canopy effect in the parking lot. In order to be considered within the parking lot, the trees must be located in planters that are bounded on at least three (3) sides by parking lot paving. This means that only trees in landscaped "islands" or "fingers" can count toward the parking lot tree requirement. Planters shall be of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles.

Administrative relief of the requirements of this subsection may be requested under Article 19.

- B. Required Screening: Open parking spaces, except in one-family and two-family residential projects in any zone district, shall be screened from view from adjacent properties and streets to an eventual minimum height of three feet (3') by the use of berms and/or plantings. A minimum of two-thirds ($\frac{2}{3}$) of the affected street frontage or property boundary, not counting intersecting driveways, must have required screen. Structures such as decorative walls or fences may be approved through an administrative relief request if the Zoning Administrator (or other Planning Department designee) finds that:

1. The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees; or

2. The total use of berms and/or plantings is not physically feasible; or

3. The structures attractively complement the use of berms and/or plantings.

- B) The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas, such as sodded berms and planting beds, shall be consistent with a "Landscape Policy Manual" prepared by the City Planning Department.

Administrative relief of the requirements of this subsection may be requested under Article 19. (Ord. 86-39)

CHAPTER 14 ZONING

ARTICLE 9 SIGNS¹

PART 1 PURPOSE, DEFINITIONS, PROVISIONS AND RESTRICTIONS

SECTION:

14-9-101: Purpose

14-9-102: Definitions

14-9-103: General Provisions, Restrictions and Prohibitions

14-9-101: **PURPOSE:** The purpose of this Article is to permit signs that will not, by their size, location, and construction endanger the public health and safety of individuals, or confuse, mislead, or obstruct the vision necessary for traffic safety, or decrease the value of surrounding properties. Also, because of the reliance of the community on the tourist industry due to the natural and scenic beauty of the area, this Article is intended to create a more aesthetically pleasing community to both visitors and residents by preventing the over-concentration, improper placement, and bulk of signs. (Ord. 84-28)

14-9-102: **DEFINITIONS:**

AWNING, CANOPY OR MARQUEE SIGN: A sign that is mounted or painted on or attached to an awning, canopy or marquee.

BANNER: A flexible material (e.g. cloth, paper, vinyl, etc.) on which a sign is painted or printed.

BILLBOARD: A sign which directs attention to a business, activity, commodity, service, entertainment or communication which is not conducted, sold or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.

CONSTRUCTION SIGN: A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

DIRECTIONAL SIGN: A sign limited to directional messages, principally for pedestrian or vehicular traffic.

FREESTANDING SIGN: Any nonmovable sign not affixed to a building.

IDEOLOGICAL SIGN: A sign communicating a message or ideas for noncommercial purposes, and which does not constitute any of the following: construction sign, direction sign, mural, billboard, on premises sign, real estate sign, political sign, model complex sign, garage sale signs, banners or home occupation signs.

LOW PROFILE SIGN: A freestanding sign not exceeding six feet (6') in height measured from the finished grade to the top of the sign.

MURAL: A picture or graphic illustration applied directly to a wall of a building which does not advertise or promote a particular business, service or product.

ON-PREMISE SIGN: A sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.

POLITICAL SIGN: A temporary sign pertaining to any national, state, or local election.

PORTABLE SIGN: A sign that is not permanently affixed to a building, structure or the ground.

PROJECTING SIGN: A sign that is wholly or partly dependent upon a building for support and which projects more than twelve inches (12'') from such building.

REAL ESTATE SIGN: A sign intended to advertise the financing, development, sale, transfer, lease, exchange or rent of real property or properties.

ROOF SIGN: Roof sign shall mean a sign on or above a roof of a building or structure.

1. For structural requirements relating to signs, see Part 3 of Article 2 of Chapter 16 of this Code.

SIGN: Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure or object on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

SIGN AREA: Sign area shall include the entire face of the sign, frame and art work incidental to its decoration and shall include any spacing between letters, figures and designs but shall not include the bracing or structure of the sign. When the sign consists only of letters, designs or figures engraved, painted, projected or fixed on a wall or freestanding sign, the total area of the sign shall be the area of the smallest geometric figure or combination of regular geometric figures within which all of the fixed lettering, spacing between letters, and/or artwork is inscribed. All sides of a sign which are visible from any one vantage point shall be measured in determining the area of a sign, except that only one side of a sign shall be measured if the two (2) sides are back to back or separated by an angle of forty five degrees (45°) or less. If the two (2) sides are not of equal size, the larger side shall be measured. A back to back sign shall have parallel faces, separated by not more than four feet (4').

SIGN PLAN: A site plan showing the following information:

- A. Building locations and dimensions.
- B. Size, location and type of both existing and proposed sign or signs.
- C. Nearest street intersections.
- D. Zoning.
- E. Name of applicant and sign installer.
- F. Corner visibility triangle as defined in Section 14-15-111 if appropriate.

TEMPORARY SIGNS: A sign constructed of cloth, canvas, fabric, plywood or other light material and displayed for a short period of time as described in this Article.

WALL SIGN: A sign fastened to or painted on the wall or parapet of a building or structure in such a manner

that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve inches (12") from such building or structure. Signs not exceeding four feet (4') in height measured from the finished grade to the top of the sign and located either within ten feet (10') of the building or within a distance equal to ten percent (10%) of the distance from the building to the nearest public street, whichever is greater, but in either case having a minimum setback of three feet (3') from any property line shall be considered wall signs.

WINDOW SIGN: A sign that is applied or attached to the exterior or interior of a window or located inside a building within six feet (6') of the interior side of a window and displayed so as to attract attention of persons outside the building. A window sign does not include merchandise or models of products or services incorporated in a window display. (Ord. 84-28; Ord. 85-43)

14-9-103: GENERAL PROVISIONS, RESTRICTIONS AND PROHIBITIONS: Except as otherwise specifically provided in the City Code, the following provisions apply in all zones and for all signs.

- A. Portable or movable signs, or inflatable devices including blimps or balloons used as signs, are prohibited, except for such portable signs or inflatable devices which are hand held by any person or persons, and except ground mounted temporary inflatable signs for the period of a civic event. Manned balloons or airships are not included in these restrictions and prohibitions.
- B. No sign shall be permitted which may obstruct the view in any direction at the intersection of a street or with an alley or driveway.
- C. A sign placed or painted on any motor vehicle, recreational vehicle, trailer or other movable device that reasonably indicates the use of such vehicle, trailer or device as a sign is prohibited. This includes the parking of such vehicle, trailer or device in such a manner to constitute a sign.
- D. A flashing or animated sign or sign with intermittent or varying intensity of illumination is prohibited, whether deliberate or as a consequence of a defect in the sign or the illumination source, except for a sign indicating the time, date, and temperature.

- E. The light from any light source intended to illuminate a sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas.
- F. No sign shall obstruct any door, fire escape, stairway or any opening intended to provide ingress and egress to or from any building or structure.
- G. The lowest point of any sign which extends over an area intended for pedestrian use shall not be less than eight feet (8') above the finished grade below it. The lowest point of any sign which extends over an area intended for vehicular use shall not be less than fourteen feet (14') above the finished grade below it.
- H. Nonconforming Signs: Any legally established sign in existence at the time of enactment of this Article is considered nonconforming and may remain. Any nonconforming sign whose sign area is destroyed by seventy five percent (75%) or more may not be replaced and shall be removed. A nonconforming sign may continue as long as it is not enlarged or replaced. Nonconforming signs whose use has been discontinued for a period of one year shall meet the requirements of this Article.
- I. For the purpose of regulating signs visible from any Interstate highway, there are hereby created four (4) zones, each zone measured perpendicularly from the boundary of the Interstate highway right of way. Frontage roads shall be considered as lying outside the Interstate right of way. An Interstate highway is defined in section 43-2-101(2), C.R.S. 1973.
 - 1. Zone No. 1: Zone No. 1 shall be that area within two hundred twenty feet (220') of the highway boundary. No signs, the faces of which are visible from the highway, shall exceed one hundred (100) square feet or the specific zone requirement, whichever is the more restrictive.
 - 2. Zone No. 2: Zone No. 2 shall be that area from two hundred twenty feet (220') to four hundred forty feet (440') from the highway boundary. No signs, the face of which are visible from the highway, shall exceed two hundred (200) square feet or the specific zone requirement, whichever is the more restrictive.
 - 3. Zone No. 3: Zone No. 3 shall be that area four hundred forty feet (440') to six hundred sixty feet (660') from the highway boundary. No sign, the face of which is visible from the highway, shall exceed three hundred (300) square feet or the specific zone requirement, whichever is the more restrictive.
 - 4. Zone No. 4: Zone No. 4 shall be that area more than six hundred sixty feet (660') from the highway boundary. No sign, the face of which is visible from the highway boundary, shall exceed six hundred (600) square feet, or the specific zone requirement, whichever is the more restrictive.
- J. A sign shall not be placed on any property without written consent of the owner or the owner's authorized agent.
- K. On premise entrance, exit and directional signs per approved sign plan shall be allowed in all zones. Such signs shall not exceed four feet (4') in height and six (6) square feet in sign area.
- L. Sign setbacks shall mean that no part of a sign may protrude into the setback.
- M. Each sign shall be identified by a label, nameplate or trademark identifying the manufacturer and/or installer of the sign, except those signs that do not require the submittal of a sign plan.
- N. No signs shall be allowed which advertise activities that are illegal under Federal or State laws or rules or regulations, County resolutions or City ordinances or resolutions.
- O. No sign shall be erected or painted upon retaining walls, fences, rocks or natural features.
- P. Awning or canopy signs are allowed in all zones, are in addition to any other sign permitted by this Article and must meet the following regulations:

- P) 1. One-half (0.5) square feet of signage for each linear foot of awning or canopy.
2. The sign or signs must be placed on the side of the awning or canopy from which it draws its allowed square footage, and may not extend above, below or beyond the awning or canopy.
- Q. Permanent window signs may be substituted for wall signage with a corresponding reduction of wall signs.
- R. Projecting signs may be substituted for wall signage with a corresponding reduction of wall signs.
- S. Temporary and permanent signs are prohibited on public property including public rights of way unless a revocable permit where required has been secured in accordance with the requirements of Part 2 of Article 2 of Chapter 19 of the City Code. Signs that project into the public right of way shall secure a revocable permit where required from the City Clerk prior to placement except those signs in conformance with the Uniform Sign Code. The lowest point of any sign which extend over areas of pedestrian use shall not be less than eight feet (8') above the finished grade below it. The lowest point of any sign which extends over an area intended for vehicular use shall not be less than fourteen feet (14') above the finished grade below it.
- T. Murals and building decorations not an integral part of a sign are not considered signs for the purposes of this Article.
- U. Official traffic signs, signals or devices erected by governmental entities are exempt from the provisions of this Article.
- V. Sign plans must be submitted to and approved by the Planning Department under criteria set forth in this Article for all new signs prior to being presented to the Building Official for issuance of sign permit. Upon completion of the installation of a new sign a request shall be made to the Planning Department for a final inspection. The request must include the installer's name, permit number (if permit required) address of installation and type of sign. The following types of signs shall not require a sign plan:

- V) 1. Temporary window signs.
2. Customary identification signs which indicate name, type of business and/or hours of operation attached to or painted on a building or window and not exceeding five (5) square feet in size.
3. Temporary political signs.
4. Real estate signs of thirty two (32) square feet or less.
5. Change of copy or message on legally established signs.
6. Ideological signs.
7. Garage sale signs.
8. Construction sign.
- W. If any provision of this Article conflicts with any other adopted City Code regulating signs, this Article shall govern.
- X. Signs along highways as defined in Section 43-2-101(1) C.R.S. 1973, and signs along the Interstate system of highways as defined in Section 43-2-101(2), C.R.S. 1973, are prohibited unless such signs conform with all of the requirements of the Outdoor Advertising Act, Part 4 of Article 1 of Title 43, C.R.S. 1973, as amended, and any rules and regulations promulgated by the State of Colorado Department of Highways pursuant thereto and any applicable Federal law and rules and regulations.
- Y. Sign plans will not be approved for new signs where illegal sign(s) exist on the premises. (Ord. 84-28; Ord. 85-43)

CHAPTER 14 ZONING

ARTICLE 9 SIGNS

PART 2 CATEGORIES OF SIGNS

SECTION:

- 14-9-201: Signage Allowed in Specific Zones
- 14-9-202: Temporary Signs
- 14-9-203: Billboards
- 14-9-204: Benches at Bus Stops
- 14-9-205: Ideological Signs

14-9-201: SIGNAGE ALLOWED IN SPECIFIC ZONES: On-premise signs shall meet the following requirements for each applicable zone.

A. OR, OC, PBC-1, APD.

1. Wall and/or Low Profile Signage: One square foot of signage for each linear foot of exterior walls. The sign or signs must be placed on the side of the building from which it draws its allowed square footage. Total square footage may be used as wall sign or signs, or roof signs not to extend above the highest point of the roof or on a low profile sign with a corresponding reduction of wall signage. There shall be no more than one low profile sign per freestanding building. Low profile signs shall be setback a minimum of three feet (3') from the property line. No sign shall project above the highest point of the building, excluding roof top mechanical structures, chimneys, elevator shafts, ventilators or other such facilities.

2. Freestanding Signs: PBC-1, OC and APD districts shall be allowed one freestanding sign in addition to the above signage. Such sign shall not exceed one hundred (100) square feet in area, twenty five feet (25') in height, and shall be setback a minimum of ten feet (10') from any property line.

B. C-5P, C-6P, PBC-2, PIP-1, PIP-2.

1. Wall and/or Low Profile Signage: One and one-half (1.5) square feet of signage for each

B1) linear foot of exterior wall. The sign or signs must be placed on the side of the building from which it draws its allowed square footage. Total square footage may be used as wall sign or signs, or roof signs not to extend above the highest point of the roof or on a low profile sign with a corresponding reduction of wall signage. There shall be no more than one low profile sign per freestanding building. Low profile signs shall be set back a minimum of three feet (3') from any property line. No sign shall project above the highest point of the building, excluding roof top mechanical structures, chimneys, elevator shafts, ventilators or other such facilities.

2. Freestanding Signs:

a. For districts twelve (12) acres or less- one freestanding sign not to exceed one hundred fifty (150) square feet.

b. For districts more than twelve (12) acres- two (2) freestanding signs not to exceed one hundred fifty (150) square feet per sign.

c. For PBC-2 districts of forty (40) acres or greater- two (2) freestanding signs not to exceed three hundred (300) square feet per sign or one freestanding sign not to exceed four hundred fifty (450) square feet.

d. Maximum height of freestanding sign- thirty feet (30').

e. Freestanding sign setback from any property line shall be a minimum of ten feet (10').

C. C-5, C-6, M-1 and M-2.

1. Wall and/or Low Profile Signage: Two (2) square feet of signage for each linear foot of exterior walls. The sign or signs must be placed on the side of the building from which it draws its allowed square footage. Total square

- C1) footage may be used as wall sign or signs, or roof signs not to extend more than twenty feet (20') above the roof or on a low profile sign with a corresponding reduction of wall and/or roof signage. There shall be no more than one low profile sign per freestanding building.

2. Freestanding Signs:

a. For platted lots of one acre or less- one freestanding sign not to exceed one hundred fifty (150) square feet.

b. For platted lots greater than one acre but less than five (5) acres- two (2) freestanding signs not to exceed one hundred fifty (150) square feet each.

c. For platted lots of five (5) acres or more- three (3) freestanding signs not to exceed one hundred fifty (150) square feet each or two (2) freestanding signs not to exceed two hundred (200) square feet each.

d. Maximum height of freestanding sign- C-5, forty feet (40'); C-6, fifty feet (50'); M-1 forty feet (40'); M-2, forty feet (40').

e. Freestanding and low profile signs setback on property line.

- D. MHP, MHS, RVP. One sign shall be allowed. The total area of the sign shall not exceed forty (40) square feet and shall be limited to eighteen feet (18') in height.
- E. A, R, R-1-9000, R-1-6000, R-2. A low profile sign indicating the name of the subdivision shall be allowed at the street entrance of the subdivision. Such sign shall not exceed forty (40) square feet in size and may be attached to a freestanding wall or fence.
- F. PUD, R-4, R-5, SU. One wall or low profile sign indicating the name of the development shall be allowed per street entrance to the development. Such sign shall not exceed forty (40) square feet in size and may be attached to a freestanding wall or fence.
- G. Conditional Uses in Residential Zones. One wall or low profile sign not exceeding forty (40) square feet shall be allowed per lot.

- H. Use Variances in Residential Zones. One wall or low profile sign not exceeding twenty (20) square feet shall be allowed per lot. (Ord. 84-28)

14-9-202: **TEMPORARY SIGNS:** Temporary signs shall meet the following requirements for each category of sign. Signs that fall under this category shall be as follows: construction signs, real estate signs, off-premise real estate signs, model complex signs, political signs, garage sale signs and banners.

- A. Construction Signs. One sign shall be allowed per lot. The sign shall not exceed thirty two (32) square feet in area, and shall not be erected until a building permit has been issued. The sign shall be removed within fourteen (14) days after the issuance of a certificate of occupancy.

B. Real Estate Signs.

1. Residentially zoned lots or parcels:

a. Less than one acre- one sign per street frontage not to exceed six (6) square feet per sign.

b. One to five (5) acres- one sign per street frontage not to exceed thirty two (32) square feet per sign.

c. Five (5) to ten (10) acres- two (2) signs not to exceed thirty two (32) square feet per sign, or one sign not to exceed sixty four (64) square feet.

d. Greater than ten (10) acres- three (3) signs not to exceed thirty two (32) square feet per sign, or two (2) signs not to exceed forty eight (48) square feet, or one sign not to exceed ninety six (96) square feet.

2. All other zoned lots or parcels:

a. Less than one acre- one sign per street frontage not to exceed thirty two (32) square feet per sign.

b. One to five (5) acres- one sign per street frontage not to exceed sixty four (64) square feet per sign.

B2) c. Five (5) to ten (10) acres- two (2) signs not to exceed sixty four (64) square feet per sign, or one sign not to exceed one hundred twenty eight (128) square feet.

d. Greater than ten (10) acres- three (3) signs not to exceed sixty four (64) square feet per sign, or two (2) signs not to exceed one hundred twenty eight (128) square feet per sign.

Signs are to be removed fourteen (14) days after sale or lease of property.

C. Off-Premise Real Estate Signs. These signs are intended to be used for the advertising of lots that need traffic to be directed to the lot for sales purposes. One sign not exceeding twenty (20) square feet shall be allowed per vacant lot of one acre or less upon which the sign is erected. One sign not exceeding thirty two (32) square feet shall be allowed per vacant lot of more than one acre upon which the sign is erected. Signs are to be removed fourteen (14) days after sale or lease of the property. Land owner permission is required for sign erection.

D. Model Complex Signs. These signs shall be located on the project site and conform to the following requirements:

1. One sign per complex not to exceed thirty two (32) square feet.

2. One sign per model not to exceed six (6) square feet.

3. Two (2) traffic direction signs, not to exceed four (4) square feet each.

4. Signs are to be removed when complex ceases to be model home complex.

E. Political Signs.

1. One sign shall be allowed per lot. Each sign shall not exceed six (6) square feet for residentially zoned lots and thirty two (32) square feet for all other lots. Political signs shall be in addition to any other sign permitted by this Article.

2. All political signs shall be removed within ten (10) days after the election for which the sign pertains.

E) 3. These restrictions shall not apply to billboards.

F. Garage Sale Signs: One sign may be used to advertise a garage sale provided that the sign is not over three (3) square feet in area, is used only during the duration of the garage sale, and is used on the lot where the garage sale occurs.

G. Banners: Banners are allowed not exceeding one-fifth (0.20) square feet for each linear foot of property line for residentially zoned lots that contain four (4) or more dwelling units. Banners are allowed not exceeding three-fourths (0.75) square feet for each linear foot of exterior wall for all lots that are not zoned residentially. The banner or banners must be placed on the side of the building from which it draws its allowed square footage. Banners are allowed for a maximum period of one hundred twenty (120) days per calendar year per user and are in addition to any other sign permitted by this Article. Banners must be kept in good repair and remain firmly attached to the building. (Ord. 84-28)

14-9-203: **BILLBOARDS:** Billboards shall meet the following requirements:

A. Billboards shall be permitted only in those areas zoned M-1, M-2, PIP-2, and C-6.

B. Billboards shall not exceed eight hundred (800) square feet in sign area.

C. No billboard shall be erected or maintained which exceeds fifty feet (50') in height above the ground elevation.

D. Billboards shall be located no closer than fifty feet (50') from any residential zone for those signs of twenty five feet (25') in height or less. Those signs in excess of twenty five feet (25') in height shall be setback four (4) additional feet from the residential zone for every one additional foot in height.

E. No billboards shall be spaced less than the required number of feet as shown in the chart below; provided, however, signs may be erected back to back and shall count as one sign for spacing purposes. Physical spacing of

- E) billboards shall be determined by the date of issuance of the permit and the person first obtaining a permit shall have priority pursuant to the spacing provision of this Section. Distances between signs shall be measured horizontally along the centerline of the street or highway to which the sign is directed.

Spacing Requirement

PIP-2	1,000 ft.
C-6	1,000 ft.
M-1	1,000 ft.
M-2	400 ft.
(Ord. 84-28)	

14-9-204: BENCHES AT BUS STOPS: Within all zones of the City advertising displays not exceeding twelve (12) square feet in area shall be permitted and authorized upon benches at bus stops provided for the convenience of patrons of buses or other public carriers, if said benches have been placed within the public rights of way under proper permit or authority of the City Council. (Ord. 84-28)

14-9-205: IDEOLOGICAL SIGNS: One ideological sign shall be allowed per lot not exceeding six (6) square feet in sign area and four feet (4') in height. An ideological sign is in addition to any other signs permitted by this Article. (Ord. 84-28)

CHAPTER 14 ZONING

ARTICLE 10 LANDSCAPE REQUIREMENTS

SECTION:

- 14-10-101: Purpose and Intent
- 14-10-102: Objectives
- 14-10-103: Definitions
- 14-10-104: Landscape Plan Requirements
- 14-10-105: Landscape Material Specifications
- 14-10-106: General Landscape Requirements
- 14-10-107: Enforcement/Assurances for Installation and Completion
- 14-10-108: Maintenance
- 14-10-109: Special Landscape Districts
- 14-10-110: Landscape Policy Manual

14-10-101: **PURPOSE AND INTENT:** This Section is intended to provide uniform standards for development and maintenance of the landscaping of private property and public rights-of-way.

The City recognizes that landscaping can be a significant expense to business people and residents. At the same time, landscaping improves the livability of residential neighborhoods, enhances the appearance and customer attraction of commercial areas, increases property values, improves the compatibility of adjacent uses, screens undesirable views, contributes to the image and appeal of the overall community, and can reduce air and noise pollution. The intent of these regulations is to achieve a reasonable balance between the right of individuals to develop and maintain their property in a manner they prefer and the right of City residents to live, work, shop, and recreate in pleasant and attractive surroundings. (Ord. 86-39)

14-10-102: **OBJECTIVES:** Landscaping shall enhance the streetscapes along the City's public rights-of-way with an emphasis on trees, to define and separate vehicular and pedestrian traffic areas, screen the appearance of parking areas from public rights-of-way and adjacent properties, mitigate the visual harshness and summer heat gain within parking areas, screen objectionable and higher intensity uses from lower intensity uses, and enhance the appearances of structures. (Ord. 86-39)

14-10-103: DEFINITIONS:

- A. "Landscaping" is defined as any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences, or benches.
- B. "Landscape Setback" is defined as a minimum required landscaping space on a private property which is adjacent to a property line common to a street right of way or another property. Driveways and sidewalks to afford limited access may be allowed to interrupt this required space.
- C. Other definitions are provided in the "Definitions" Section of the Zoning Chapter. (Article 1, Section 14-1-109) (Ord. 86-39)

14-10-104: LANDSCAPE PLAN REQUIREMENTS:

- A. Preliminary Landscape Plan: A preliminary landscape plan may be submitted instead of a final landscape plan as part of the development plan under administrative review (per Article 5 of the Zoning Chapter). As a condition of approval of the development plan with a preliminary landscape plan, a final landscape plan shall be submitted for review and approval prior to the issuance of building permits. A preliminary landscape plan shall not be submitted as part of the application for a conditional use, a use variance, or a zone change which requires a development plan at the time of the zone change.

The Planning Department planner reviewing a development plan shall have the authority to require part or all of the final landscape plan information when the preliminary landscape plan information is not sufficient to assure that the development plan will avoid (or acceptably mitigate) an adverse impact on a surrounding property.

A) The following information shall be included in a preliminary landscaping plan:

1. North arrow.
2. Indication of scale (for example, 1" = 20' or a bar scale).
3. Existing and proposed contours adequate to identify and properly specify landscaping for areas needing slope protection, as well as adequate to depict any screening of parking areas. Such information may be on a sheet separate from the planting plan.
4. Project data information including the total square footage of the property; the square footage of the building areas, parking and other vehicular use areas, and landscape areas (including required sub-areas such as internal landscaping areas); the total number of open vehicular parking stalls; and the total number of proposed dwelling units in a residential development project.
5. The existing/proposed zoning of the subject property and the existing zoning/approved master plan designations on surrounding properties.
6. The location of all structures, light standards, retaining walls, fences, exterior parking and loading areas, pedestrian walks or paths, pedestrian-oriented areas, vehicular drives, storm water detention areas, and other man-made elements. A description of all required structures for screening purposes.
7. Delineation of the corner visibility triangle areas required under Section 14-15-111 of this Chapter.
8. The general location, type and size of major existing plant materials with information as to which such materials shall be removed and which shall be retained or relocated.
9. The general location, type, and quantity of proposed plant and other landscape materials. This information shall be sufficient to ensure that the various landscape requirements can be met on the final landscape plan.

B. Final Landscape Plan: A final landscape plan shall be submitted for City review and approval as part of any required development plan review (Article 5) or as part of any building permit application package for any new development project, redevelopment project, or proposed change of use, except for those in single-family or two-family zone districts.

The following information shall be included in a final landscape plan:

1. North arrow.
2. Indication of scale (for example, 1" = 20') or a bar scale.
3. Existing and proposed contours (for example, 2' interval) adequate to identify and properly specify landscaping for areas needing slope protection, as well as adequate to depict any screening of parking areas. Such information may be on a sheet separate from the planting plan.
4. Project data information including the total square footage of the property, the square footage of the building areas, parking and other vehicular use areas, and landscape areas (including required sub-areas such as internal landscaping areas); the total number of open vehicular parking stalls; and the total number of proposed dwelling units in a residential development project.
5. The existing/proposed zoning of the subject property and the existing zoning on surrounding properties.
6. The location of all structures, light standards, retaining walls, fences, exterior parking and loading areas, pedestrian walks or paths, pedestrian-oriented areas, vehicular drives, storm water detention areas, and other man-made elements. Detail drawings of all required structures for screening purposes.
7. Delineation of the corner visibility triangle areas required under Section 14-15-111 of this Chapter.
8. The location, type and size of major existing

B,8) plant materials, including all trees, with information as to which such materials shall be removed and which shall be retained or relocated.

B) 9. The location, type, size, quantity and planting spacing (where applicable) of proposed plant and other landscape materials. Such information shall be summarized in a legend, in a similar manner as the example shown below:

LEGEND					
SYMBOL	QUANTITY	BOTANICAL NAME	COMMON NAME	PLANTING SIZE & CONTAINER	COMMENTS
HL	6	Gleditsia triacanthos inermis "Sunburst"	Sunburst Honey-locust	2-2½" caliper; balled and burlapped	Guy and stake
PP	7	Picea pungens	Blue Spruce	6-8' height; balled burlapped	Guy and stake
BT	10	Berberis thunbergii Atropurpurea	Red Leaf Barberry	3½' width; 5 gal. container	
AR	500	Ajuga reptans "Burgundy"	Burgundy Ajuga	2¼" pot	12" o.c.
	2,000 sq. ft.	Blend of Adelphi, Baron, and Sydsport varieties	Kentucky Bluegrass		Sod
	300 sq. ft.		River Rock	1½-2" in size, 4" in depth	Placed over geo textile fabric

NOTE: The botanical name and common name of plants may be replaced by the specification that the tree is one on an acceptable list in the "Landscape Policy Manual" (for example, "parking lot tree from list of acceptable trees in Landscape Policy Manual").

(See following page for Section 14-10-104 continued)

- B) 10. The planting size of all deciduous trees shown on the plan shall be indicated in minimum inches of caliper, measured six inches (6") above ground. The planting size of all evergreen trees shall be indicated in minimum feet of height above ground. The planting size for shrubs shall be indicated in the minimum container size in inches or gallons, as appropriate.

11. All plant materials shall be shown on the plan at approximately the mature size of the materials.

12. All proposed lawn areas and ground cover areas shall be identified, including the types and amounts of living plant materials to be used and the size and depth of nonliving materials. The manner in which any lawn areas are to be established (for example, by sodding or seeding) shall be indicated. The landscape treatment of all adjacent right-of-way areas, as well as the owner/developer's property, shall be identified.

13. Statement of the type of equipment and methods to be used to irrigate the required landscape areas. (Ord. 86-39)

14-10-105: LANDSCAPE MATERIAL SPECIFICATIONS: The minimum planting/installation size and characteristics of plant materials which are required by this Article shall be as follows:

- A. Deciduous shade trees: One and one-half inch (1½") caliper measured six inches (6") above ground, balled and burlapped.
- B. Deciduous ornamental trees: One inch (1") caliper measured six inches (6") above ground, balled and burlapped.
- C. Evergreen trees: Six feet (6') in height above ground, balled and burlapped.
- D. Evergreen and deciduous shrubs: One or five (5) gallon size, depending on the spacing of the plants. (See the "Landscape Policy Manual" prepared by the Planning Department.)
- E. Ground covers and vines: Two and one-quarter inches (2¼") flat-type container, one gallon, or five (5) gallon size, depending on the spacing of the plants. (See the "Landscape Policy Manual".) (Ord. 86-39)

14-10-106: GENERAL LANDSCAPE REQUIREMENTS:

- A. Required Minimum Landscape Setbacks. All Zone Districts (One-Family and Two-Family Residential Projects in any Zone District are excluded)

1. Minimum depth of landscaped setback:

- Adjacent to a major arterial, expressway or freeway on the City's major thoroughfare plan, twenty five feet (25')
- Adjacent to a minor arterial on the City's major thoroughfare plan, twenty feet (20')
- Adjacent to any nonarterial street, ten feet (10')
- Adjacent to a nonstreet boundary of the zone district, no minimum depth requirement (however, must provide for required "nonstreet boundary" trees discussed below or may need to provide "buffer" requirements discussed later in Section 14-10-106B, if applicable).

2. Minimum number of trees in landscaped setbacks and nonstreet boundaries:

- Adjacent to a major arterial, expressway, or freeway on the City's major thoroughfare plan, a minimum of one tree for every twenty feet (20') of frontage of the property within the zone district.
- Adjacent to a minor arterial on the City's major thoroughfare plan, a minimum of one tree for every twenty five feet (25') of frontage of the property within the zone district.
- Adjacent to any nonarterial street, a minimum of one tree for every thirty feet (30') of frontage of the property within the zone district.
- Adjacent to any nonstreet (interior) boundary, a minimum of one tree for every thirty feet (30') of nonstreet (interior) boundary of the zone district. These trees do not need to be located in a landscaped setback of a minimum size but shall be in planters of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles. The planter specifications shall be consistent with a "Landscape Policy Manual" prepared by the Planning Department.
- These required landscaped setback and boundary trees may be clustered along a particular frontage or boundary. The trees shall be selected from the list of tree types that are commonly known to grow in the Colorado

A,2) Springs area, listed in the "Landscape Policy Manual" prepared by the Planning Department.

— The required landscaped setback trees may be located in a landscaped setback with a depth greater than the minimum required depth; however, in any case the required trees shall be located within fifty feet (50') of the street side property line. The required boundary trees shall be located within fifty feet (50') of the nonstreet (interior) boundary of the zone districts.

— The required landscaped setback trees may be permitted to be located in part or in total in the adjacent public right-of-way area, if: (1) the City Forester's standards for street trees are met in the case of a City street; (2) the District Engineer approves the trees in the case of a State Highway; and (3) no conflicts exist with utility easements.

— The required landscaped setback trees shall be located in the adjacent public right-of-way area if these trees cannot be placed in the landscaped setback area due to the existing development of the site. However, such trees are required only to the extent that: (1) the City Forester's standards for street trees are met in the case of a City street; (2) The District Engineer approves the trees in the case of a State Highway; and (3) no conflicts exist within utility easements.

— Walls and fences which are twenty five percent (25%) or more opaque in design shall be no higher than three feet (3') above finish grade in a required landscaped setback. Opaque walls and fences higher than three feet (3') (such as noise barriers) must be located outside of the landscaped setback to maintain a landscaped appearance along the street.

— The landscape setback requirements in this Section are superseded, where applicable, by the front yard parking prohibitions in Section 14-8-102, General Provisions, Restrictions and Prohibitions. The parking section prohibits parking in the required front yard (building setback area) in any residential zone, the OR zone, and in residential development in any other zone. The parking section may cause a greater landscaped setback than required by this Section.

A,2) Administrative relief of the requirements of the Section, "Required Minimum Landscaped Setbacks", may be requested under Article 19.

B. Required Buffers:

1. Buffer Between Nonresidential and Residential Districts Separated by a Nonarterial Street:

— Where Required: Such a buffer is required along the streetside property line in any nonresidential project in any zone district where such a project is separated from a residential district by a nonarterial street. Nonarterial streets are those not designated as arterial streets on the City's major thoroughfare plan. Public alleys are also considered nonarterial streets for the purposes of this subsection.

— Design Standards: Such a buffer shall be a minimum of fifteen feet (15') in depth. The minimum number of trees in such a buffer shall be one tree for every fifteen feet (15') of the frontage length of the buffer. A minimum of one-third ($\frac{1}{3}$) of the trees shall be evergreen trees. These requirements may effectively increase the depth and number of trees of the "minimum required landscaped setback" (in Section 14-10-106A1 and A2).

An opaque structure with a minimum height of six feet (6') is required along the inside edge (private property side) of the buffer.

This buffer area shall require a ground covering with a minimum of seventy five percent (75%) in living plant materials.

Administrative relief of the requirements of this subsection may be requested under Article 19.

2. Buffer Between: (1) Adjacent nonresidential and residential projects and (2) Adjacent multi-family residential and single-family/two-family residential projects:

Where Required: Such a buffer is required in the following situations:

a. Along the common property line in any nonresidential project in any zone district where such a project is adjacent to any residential zone district.

- B,2) b. Along the property line in any multi-family project (a project with three [3] or more dwelling units in one building) in any zone where such a project is adjacent to a one-family or two-family zone district.

Design Standards: Such a buffer shall be a minimum of fifteen feet (15') in depth. The minimum number of trees in such a buffer shall be one tree for every fifteen feet (15') of the length of the buffer. A minimum of one-third ($\frac{1}{3}$) of the trees shall be evergreen trees. An opaque structure with a minimum height of six feet (6') is required along the common property line.

This type of buffer is not required to consist of a minimum percentage in ground covering by living materials. However, that portion of the buffer area in a ground covering by nonliving materials shall be covered with bark, wood chips, rock, stone, or other materials.

Administrative relief of the requirements of this subsection may be requested under Article 19.

C. Required Internal Landscaping:

1. Purpose: "Internal" landscaping requirements are intended to augment the "boundary" landscaping requirements (such as landscaped setbacks and buffers) and parking lot landscaping requirements. The purpose of "internal" landscaping is to visually soften the mass of buildings and to visually separate building areas from parking areas. The City recognizes that flexibility in the design of spaces and tree selection is needed. This flexibility is needed because of: 1) the diversity of building designs; 2) the possible limitations on plant selections due to building foundation problems posed by the root growth of some trees; and 3) building foundation problems posed by the irrigation of expansive soils.

These requirements do not apply to one-family and two-family residential projects in any zone district.

2. Requirements for multi-family projects (a project with three (3) or more dwelling units in one building) in any zone district:

— Minimum internal landscaping area: A minimum of fifteen percent (15%) of the site's net area (site's area excluding adjacent public streets).

- C,2) — Minimum number of trees in the internal landscaping area: A minimum of one tree for every five hundred (500) square feet of the required minimum internal landscaping area.

3. Requirements for Nonresidential projects in any zone district:

— Minimum internal landscaping area: A minimum of five percent (5%) of the site's net area (site's area excluding adjacent public streets).

— Minimum number of trees in the internal landscaping area: A minimum of one tree for every five hundred (500) square feet of the required minimum internal landscaping area.

Up to one-half ($\frac{1}{2}$) of the required trees may be substituted by shrubs adjacent to retail store fronts where the view of wall signs may be obstructed. Ten (10) shrubs with a minimum container size of five (5) gallons shall be provided for each tree that is replaced.

4. Standards for the minimum internal landscaping area and minimum number of trees:

— Location of the minimum area: To be credited toward the minimum internal landscaping area requirement, a landscaping area shall be located as follows:

a. Adjacent to those building elevations which form the major public views of the project from adjacent streets and properties and to the users of the project, or

b. Within a plaza or courtyard between buildings or portions of buildings, or

c. In a space provided to separate building areas from parking areas, or

d. In a similar location which substantially conforms to the stated purpose of the required internal landscaping area (see above), if approved by the Planning Department.

The location of spaces credited toward the minimum internal landscaping area requirement shall be consistent with the policies in the "Landscape Policy Manual" prepared by the Planning Department.

- C,4) The minimum internal landscaping area and its minimum number of trees may not consist of spaces or trees which are proposed to meet the minimum requirements of other sections of this Chapter, such as landscaped setbacks, buffers, or parking lot trees.

Design Standards: The minimum required internal landscaping area shall consist of a minimum of fifty percent (50%) on ground covering by living grass or other plant materials. This percentage provides flexibility where plants and their irrigation should be limited next to building foundations.

The intent of the internal landscaping area is to provide relief from structures and hard surfaces in a project through the use of plantings. Therefore, sidewalks which provide basic pedestrian circulation only shall not be credited toward the minimum internal landscaping area requirement. Paved plazas may be credited to a maximum of fifty percent (50%) of required internal landscaping area if such plazas have trees which provide visual relief to those building elevations which form the major public views of the project.

To provide for flexibility of design in the minimum internal landscaping area, the developer may select the types of and the planting spaces between the required trees. However, the trees shall be selected from the tree types that are commonly known to grow in the Colorado Springs area, listed in the "Landscape Policy Manual" prepared by the Planning Department. The planting spacing should allow for the growth characteristics of the trees without adversely affecting the maintenance of structures, walks, or drives.

The minimum planting sizes of trees shall comply with the specifications provided in Section 14-10-105 above.

Administrative relief of the requirements of this Section, "Required Internal Landscaping", may be requested under Article 19.

- D. **Percentage in Living Materials:** Unless otherwise specified, any required landscape area, such as a "minimum landscaped setback", shall consist of a minimum of seventy five percent (75%) in ground covering by living grass or other plant materials. The minimum planting sizes and

- D) spacings of shrubs and ground covers to meet a ground covering requirement shall be consistent with a "Landscape Policy Manual" prepared by the Planning Department. The foliage crown of trees shall not be used in the seventy five percent (75%) or other required percentage calculation. The remaining twenty five percent (25%) of the required landscape area may be covered with bark, wood chips, rock, stone, or similar materials.

E. **Other Landscape Regulations:**

1. Landscaping shall not conflict with the traffic visibility requirements in Section 14-15-111 of this Chapter.

2. The use of artificial trees, shrubs, vines, turf, or other plants as an outside landscape material is prohibited.

3. The planting of any trees of the *Ulmus* genus (that is, elm) is prohibited.

4. Box Elder (*Acer negundo*) and all trees of the *Salix* and *Populus* genus, except Aspen (*Populus Tremuloides*) and Cottonless Cottonwood (*Populus deltoides* 'Siouxland'), shall not be planted within twenty five feet (25') of a street right of way.

5. Clumps of trees (such as Aspen, *Populus Tremuloides*), where used, are encouraged instead of single-trunk trees. However, such a clump shall be credited as only one of the required trees.

6. Landscaping shall not interfere with the general function, safety or acceptability of any gas, electric, water, sewer, telephone, or other utility easement. Landscaping shall be limited to an eight inch (8") mature height within three feet (3') of a fire hydrant.

7. Refuse collection areas, including trash bins, shall be screened from view from adjacent properties and streets by the use of wall or fence of an opaque design or other architectural elements, or dense evergreen plantings with a minimum planting height of four feet (4').

8. Loading docks, vehicle repair bays, and vehicle fueling areas shall be screened from view from adjacent properties and streets by the use of plantings, berms, walls, fences, or other architectural elements.

- E) 9. The existing indigenous vegetation on a site is encouraged to be retained in a development project and may be credited toward required landscaping in this Chapter.

10. Where a calculation of a requirement results in a fractional number (such as 14.2 required trees), the requirement shall be considered the next greatest whole number (such as 15 required trees).

11. Where two (2) different landscape requirements apply (for example, a buffer and a landscaped setback), the greater requirement shall be met (for example, the buffer).

12. Landscaping in the right of way of a State highway shall be approved by the District Engineer, where applicable.

13. Parking lot landscaping requirements are provided in Section 14-8-104 of this Chapter. Street tree requirements are provided in Section 18-4-101 through 18-4-112 of the Parks and Recreation Chapter of the Code of the City of Colorado Springs. Requirements for the maintenance of "street parkings" (area between a property line and curb) are provided in Section 18-4-109 of the Parks and Recreation Chapter. (Ord. 86-39; Ord. 86-177; Ord. 86-229)

14-10-107: **ENFORCEMENT/ASSURANCES FOR INSTALLATION AND COMPLETION:**

Prior to the issuance of a certificate of occupancy for any structure where landscaping is required, except when a certificate of occupancy is obtained by providing acceptable assurance to the City guaranteeing the completion of such landscaping, all work as indicated on the landscaping plan shall be inspected and approved by the Planning Division, Zoning Enforcement Section. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the Zoning Enforcement Section Inspector. At the time of inspection, the Zoning Enforcement Section Inspector shall check the quantities and locations of landscape materials. At the time of such inspection, the landowner shall warrant that the completed landscaping complies with the approved landscape plan. Such warranty shall include the quantities, locations, species and sizes of plants and other landscape materials on the approved landscape plan. In the event that an inspection is not conducted by

the zoning enforcement section inspector prior to the issuance of a certificate of occupancy because acceptable assurance has been provided to the City guaranteeing the completion of such landscaping, such inspection shall be done by the zoning enforcement section inspector subsequent to the installation of such landscaping but prior to the release or expiration of the acceptable assurance.

A landowner may obtain a certificate of occupancy for a structure prior to the completion of required landscaping work if the completion is not possible due to seasonal or weather conditions and if the landowner submits the necessary assurances to the zoning enforcement section for the completion of the landscaping. The acceptable assurance guaranteeing the completion of the landscaping, such as an irrevocable letter of credit, certified check, or subdivision bond or other acceptable assurance, shall be equal to the cost of the landscaping work and shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the City Planning Department within a specified period of time not to exceed nine (9) months from the date of occupancy. (See Section 15-3-108 of this Code for the definition of "Acceptable Assurance".)

14-10-108: **MAINTENANCE:**

A. Maintenance on Private Property:

1. The landowner is responsible for the maintenance of the landscaping plan as originally approved.

2. The landowner is responsible for all regular and normal maintenance of landscaping including weeding, irrigation, fertilizing, pruning and mowing.

3. Plant materials which exhibit evidence of insects, pests, diseases and/or damage shall be appropriately treated and all dead plant material shall be removed and replaced with living plant materials.

- B. Maintenance of Adjacent Right-of-Way Areas or "Street Parkings": Section 18-4-109 of the Parks and Recreation Chapter of the City Code requires the owners of property to maintain the "street parking" (area between a property line and curb) adjoining their property. The City shall provide maintenance of trees only by means of spraying, trimming and removal.

- C. Performance Standard for Seeded Areas: Seeded landscape areas shall have no bare areas larger than six (6) square inches after germination.

14-10-109: SPECIAL LANDSCAPE DISTRICTS:

The City recognizes that the "General Landscape Requirements" (Section 14-10-106A through C, landscape setback, buffer and internal landscaping requirements) above are applicable to the general City of Colorado Springs which is generally characterized as suburban in nature, relatively lower in intensity of zoning and land use, and relatively more automobile-oriented in its transportation facilities. The City recognizes that these landscaping requirements are not applicable to two (2) special districts of the City, the "Central Business District" and the "Old Colorado City District", which are generally characterized as urban in nature, relatively higher in intensity of zoning and land use, and relatively more pedestrian-oriented in their transportation facilities.

As a result of their different characteristics from the rest of the City, the "Central Business District" and the "Old Colorado City District" are exempted from the landscaping requirements in Section 14-10-106A through C. These two (2) special landscaping districts are regulated by a special plan and set of regulations.

- A. Central Business District: The boundaries of this special landscaping district are described by a map in this Article entitled "Special Landscaping Requirements - Central Business District".

As of the date of this amendment to the Zoning Chapter, special landscaping requirements have not been adopted by City Council for this district.

- B. Old Colorado City District: The boundaries of this special landscaping district are described by a map in this Article entitled "Special Landscaping Requirements - Old Colorado City District".

The special landscaping requirements in this district consist of the "Redevelopment Guidelines for Old Colorado City". This document was adopted by reference in the "Westside Plan", adopted by City Council on January 22, 1980. Both of these documents are on file at the Planning Department. These redevelopment guidelines emphasize improvements in the public right of way and financing methods. (Ord. 86-39)

14-10-110: LANDSCAPE POLICY MANUAL: The Director of the Planning Division is hereby authorized to adopt a Landscape Policy Manual containing policies, procedures, and other provisions necessary to implement the provisions of Section 14-8-104 (Parking Lot Landscape Requirements) of this Code, Article 10 (Landscape Requirements) of Chapter 14 of this Code, Article 19 (Administrative Relief) of Chapter 14 of this Code, Section 14-13-104 (Nonconformity in Terms of Landscaping and Parking) of this Code, and Sections 18-4-301 through 304 (Street Tree Fee, Fund, Planting Requirements) of this Code. (Ord. 86-39; Ord. 86-177)

CHAPTER 14 ZONING

ARTICLE 11 ADULT USES

SECTION:

- 14-11-101: Purpose and Description
- 14-11-102: Definitions
- 14-11-103: Regulations
- 14-11-104: Variance

14-11-101: **PURPOSE AND DESCRIPTION:** In the opinion of certain planners and real estate experts the location of several adult uses in the same neighborhood tends to attract an undesirable quantity and quality of transients who adversely affect property values, cause an increase in crime, especially prostitution and encourage residents and businesses to move elsewhere, and

It has been demonstrated that the establishment of more than two (2) adult uses within one thousand feet (1,000') of each other has a deleterious effect on the surrounding residential and business areas and that the fostering of such businesses within close proximity tends to create a "Skid Row" atmosphere.

It has been demonstrated that the establishment of adult uses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and down-grading of property value.

Concern for, and pride in, the orderly planning and development of a neighborhood should be encouraged and fostered in those persons comprising residential and business segments of that neighborhood.

Article 15 (Police Regulations) of title 31 of the Colorado Revised Statutes as amended prescribes certain conduct and specifically provides that any municipality may:

"...regulate the promotion or wholesale promotion of obscene material and obscene performances as defined in part 1, article 7 of title 18, C.R.S."

and further:

"...adopt reasonable regulations for the operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishment; except that such regulations shall not be tantamount to a complete prohibition of such operation. Such regulations may include the following:

- A. Minimum age requirements for admittance to such establishments;
- B. Limitations on the hours during which such establishments may be open for business; and
- C. Restrictions on the location of such establishments with regard to schools, churches, and residential areas." (Ord. 77-10; Ord. 80-131; Ord. 86-158)

14-11-102: DEFINITIONS:

ADULT AMUSEMENT OR ENTERTAINMENT is an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined herein, including but not limited to topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.

ADULT BOOK STORE OR GIFT SHOP is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined herein.

ADULT HOTEL OR MOTEL is a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined herein, for observation by the individuals therein.

ADULT PHOTO STUDIO is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing "Specified Anatomical Areas" or "Specified Sexual Activities", as defined herein.

ADULT THEATRE is a theatre wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined herein, for observation by patrons therein.

MASSAGE PARLOR is any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas", as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse and practical nurse operating under a physician's directions, physical therapist, chiropodist, podiatrist, registered speech pathologist and physical or occupational therapist who treat only patients recommended by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bath houses. The term shall not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

RAP STUDIO is an establishment which upon payment of a fee provides either for individuals or groups, an encounter with an emphasis on "Specified Anatomical Areas" or "Specified Sexual Activities", as defined herein.

SPECIFIED ANATOMICAL AREAS is defined as:

1. Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttocks, and (c) female breast below a point above the top of the areola; and
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES means patently offensive acts, exhibitions, representations, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal;

2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;

3. Intrusion, however slight, actual or simulated, by any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body;

4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated; or

5. Flagellation, mutilation or torture, actual or simulated, in a sexual context. (Ord. 77-10; Ord. 80-131; Ord. 82-48)

14-11-103: **REGULATIONS:** The following permitted uses shall exist for the following zones: C-5 Intermediate Business, C-6 General Business and as conditional uses in Planned Business Center - 2 zone and M-2 Heavy Industrial Zone.

A. Adult Uses: Provided, however, such adult use shall not be within one thousand feet (1,000') of any residential zone, one-family, two-family or multiple dwelling, a church, a park, or an educational institution (whether within or without the City) and such adult use shall not be within one thousand feet (1,000') of any other adult use. A variance of the foregoing restrictions may be applied for in accordance with this Zoning Chapter:

1. Method of Measurement: The one thousand foot (1,000') restrictions shall be computed by direct measurement from the residential zone or from the nearest property line of the land used for another adult use or one-family, two-family or multiple dwelling, or church or park or educational institution to the nearest entrance of the building in which adult uses are to occur, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and lights. (Ord. 82-48; Ord. 86-158)

14-11-104: **VARIANCE:**

A. To the underlying zoning district, whenever an application is made to allow an adult use in a zone other than a C-5 or C-6, or as a conditional

- A) use in a PBC-2 and M-2 zone, the criteria to determine whether or not that use variance should be granted shall be the criteria set forth in Section 14-7-108 of the Code of the City of Colorado Springs 1980, as amended.
- B. Distance Requirements: A variance to the distance requirements set forth in Section 14-11-103A may be granted if the presumptions in Section 14-11-101 are overcome by proof of the following criteria by the applicant:
 - 1. That establishment of an adult use within one thousand feet (1,000') of another adult use, or establishment of an adult use within one thousand feet (1,000') of any residential zoning district, residential use, park, church or educational institution, as applicable, will not have a deleterious effect on surrounding residential and business areas by creating blight, downgrading of property values, creating a skid row atmosphere or tending to cause an increase in crime.
- C. In granting a variance to the distance requirements set forth in Section 14-11-103A, the City Council may impose reasonable conditions relating to hours of operation, screening buffering and signage as long as the conditions imposed are not designed to prohibit the dissemination of protected materials under the First Amendment to the United States Constitution. (Ord. 86-213)

CHAPTER 14 ZONING

ARTICLE 12 HUMAN SERVICE ESTABLISHMENTS

SECTION:

14-12-101: Description
 14-12-102: Definitions
 14-12-103: Regulations

14-12-101: DESCRIPTION: Governmental or private establishments providing twenty four (24) hour care and residence (permanent or temporary) for children or adults, or both; such care shall include, but not be limited to, establishments providing care to humans in need of care or treatment because of abusive drugs, abusive alcohol, developmental disability, mental/emotional disorders, physical disability, or impaired capacity for independent living. Human Service Establishments are intended to be residential in character and located in residential neighborhoods to provide the residents an opportunity to live in as normal a residential environment as possible. Human Service Establishments should be dispersed throughout the residential neighborhoods of the community. Human Service Establishments include shelters for the homeless, hospice centers, family care homes, health care support facilities, group homes for the developmentally disabled, personal care boarding homes, and detoxification centers all which are defined below. (Ord. 86-119)

14-12-102: DEFINITIONS:

DETOXIFICATION CENTER: A residential facility which provides twenty four (24) hour medical supervision, lodging and meals to individuals who need help to remove the effects of alcohol or drugs.

FAMILY CARE HOME: A State licensed facility for child care in a place of residence of a family, person or persons, for the purpose of providing family care and training for a child or children under the age of eighteen (18) years, who are not related to the head of such home. The term includes any home receiving a child or children for regular twenty four (24) hour care, and any home receiving a child or children from any State operated institution for child care, or from any child placement agency. The term "family care home" shall be further defined as one of the following three (3) types of facilities:

- A. Family Foster Home shall mean a family care home which receives one to four (4) children for regular full-time care, including not more than two (2) infants under two (2) years of age, unless they be of the same family.
- B. Receiving Home shall mean a family care home to accommodate not more than six (6) children up to eighteen (18) years of age in which children are not to remain in excess of sixty (60) days.
- C. Specialized Group Home shall mean a family care home which is established to accommodate not more than eight (8) children ranging in age from five (5) to eighteen (18) years wherein children are cared for whose special needs can best be met through the medium of a small group.

GROUP HOME FOR THE DEVELOPMENTALLY DISABLED: A State licensed group home for the developmentally disabled which serves not more than eight (8) developmentally disabled persons and appropriate staff, unless otherwise specified in this Chapter.

HEALTH CARE SUPPORT FACILITY: A residential facility where lodging, meals, and counseling services are provided to families of individuals diagnosed with a terminal illness or an illness requiring long term hospital care. The primary concern of the facility is to provide support to family members.

HOSPICE CENTER: A residential facility where lodging, meals, and continuous nursing care are provided to individuals diagnosed with a terminal illness. The primary concern of the hospice is to deal with pain control and to maintain dignity of life. Counseling is available to the patient and the family members.

PERSONAL CARE BOARDING HOME: A State licensed residential facility with appropriate staff where lodging, meals, and supervision are provided for adults who are not related to the owner, and who, because of impaired capacity for independent living, mental/emotional disorders or a physical disability, elect protective oversight, personal services, and social care but do not require regular twenty four (24) hour medical or nursing care. This term includes the term

“Alternative Care Facility” but does not include Family Care Home or Group Home for the Developmentally Disabled. The term “Personal Care Boarding Home” is further defined as one of the following three (3) types of facilities:

- A. Small Personal Care Boarding Home: Up to five (5) residents. Generally meets the definition of family.
- B. Intermediate Personal Care Boarding Home: Six (6) to eight (8) residents.
- C. Large Personal Care Boarding Home: Nine (9) or more residents.

SHELTER FOR HOMELESS: A residential facility which provides temporary group lodging and meals to individuals in need due to poor economic circumstances or social disability. (Ord. 86-119)

14-12-103: **REGULATIONS:** Whenever in this Chapter a Human Service Establishment is allowed as a conditional use, the following conditions shall be met:

- A. There is a probable need for the Human Service Establishment in that portion of the City where the location is proposed. The burden of proof to demonstrate such probable need for the facility's placement rests with the applicant.
- B. That the requested Human Service Establishment will not be located within one thousand five hundred feet (1,500') of an existing Human Service Establishment. Such one thousand five hundred feet (1,500') shall be computed by direct pedestrian route from the nearest property line on the land used for the existing Human Service Establishment to the nearest property line of the proposed Human Service Establishment, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulation and lights.
- C. Family Care Homes will not house more than a total of eight (8) natural and foster children at any one time. (Ord. 86-119)

CHAPTER 14 ZONING

ARTICLE 13 NONCONFORMING USE¹

SECTION:

- 14-13-101: Description and Limitations;
Nonconforming Use
- 14-13-102: Description and Limitations;
Nonconforming Buildings or Structures
- 14-13-103: Description and Limitations;
Nonconforming Land
- 14-13-104: Description and Limitations;
Nonconformity in Terms of Land-
scaping and Parking
- 14-13-105: Reclassification

14-13-101: **DESCRIPTION AND LIMITATIONS; NONCONFORMING USE:**

- A. Continuation. The nonconforming use of a building or structure lawfully existing at the time this Chapter became effective may be continued, except as otherwise provided in this Article.
- B. Repairs and Alterations. A building or structure nonconforming as to use may be repaired or altered, and any building, structure or portion thereof, declared unsafe by the Building Official² may be strengthened or restored to a safe condition.
- C. Change of Use. A nonconforming use of a building or structure may be changed to a less objectionable use of higher classification, but not to a use of lower classification, nor shall a nonconforming use be changed to another use of the same classification, unless the new use shall be deemed by the Hearing Officer, after public notice and hearing, to be no more harmful to the surrounding neighborhood from the standpoint of the purposes of this Chapter than the existing nonconforming use. When the use of a nonconforming building or structure is here-

- C) after changed to a use of a higher classification, such use thereafter shall not be changed to a use of a lower classification.
- D. Extension. A nonconforming use of a building or structure may not be extended except as otherwise provided in this Chapter; however, the extension of a use to any portion of a building or structure, which portion is at the time of the adoption of this Chapter primarily arranged or designed for such nonconforming use shall be permitted; provided the extension of the nonconforming use in floor area does not exceed fifty percent (50%) of the floor area which was used by the nonconforming use at the time this Chapter became effective.
- E. Discontinuance. If a nonconforming use of any building or structure is discontinued, or its normal operation stopped for a period of one year, the use of the building or structure shall thereafter conform to a use permitted in the zone in which it is located.
- F. Destruction by Calamity. No building which has been damaged by fire or other causes to the extent of more than fifty percent (50%) of its replacement value shall be repaired or rebuilt, except in conformity with the regulations of this Chapter. (Ord. 80-131; Ord. 84-28; Ord. 85-11)

14-13-102: **DESCRIPTION AND LIMITATIONS; NONCONFORMING BUILDINGS OR STRUCTURES:**

- A. Continuation. A nonconforming building or structure lawfully existing at the time this Chapter became effective may be continued, except as provided in this Article.
- B. Repairs and Alterations. A nonconforming building or structure may be repaired or altered,

1. Throughout this Article are references to "the time this Chapter became effective". The ordinance from which this Article derived became effective August 24, 1926. Ed. Note: The date just given is the date of passage of the first Zoning Ordinance adopted by the City. Since that date there have been over 400 annexations to the City. Therefore, the effective date of each annexing ordinance would determine the date upon which the Zoning Code of the City became applicable to the annexed property. Further, numerous instances of rezoning of property within the City have occurred over the years. If such rezoning rendered an existing use or structure nonconforming, then the effective date of the rezoning ordinance would determine the effective date of this Article as to those uses or structures. In summary, then, there is no single effective date of general application to all nonconforming uses and structures.

2. See Section 16-1-301 for designation of the Building Official.

- B) and any building, structure, or portion thereof, declared unsafe by the Building Official may be strengthened or restored to a safe condition.

C. Addition or Enlargement.

1. Nonconforming as to Height or Yard: A building or structure nonconforming as to height or yard regulations shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all regulations of the zone in which it is located.

2. Nonconforming as to Area Per Family or Lot Coverage. A building or structure nonconforming as to area per family or percentage of the lot be used shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all regulations, including area per family or percentage of lot to be used, of the zone in which it is located.

D. Repealed (Ord.84-28)

- E. Small Buildings. Any buildings or small structures occupying a ground area of not more than one hundred (100) square feet which, though conforming to the use regulations of the zone in which they are located, are nearer a property line or a front lot line than permitted by this Chapter shall, within a period of one year from the effective date of this Chapter, be moved so as to conform with the yard regulations for such zone.

**14-13-103: DESCRIPTION AND LIMITATIONS;
NONCONFORMING LAND:**

- A. Continuation. A nonconforming use of land, where no building is involved and where such use is the principal use, lawfully existing on the effective date of this Chapter may be continued except as otherwise provided in this Article.
- B. Extension. A nonconforming use of land shall not be expanded, enlarged or extended in any way either on the same or adjoining properties.

- C. Termination or Change of Use. Where a nonconforming use of land, or any portion thereof, is discontinued or changed, any future use of such land shall be in conformity with the regulations of this Chapter. (Ord. 80-131)

**14-13-104: DESCRIPTION AND LIMITATIONS;
NONCONFORMITY IN TERMS OF
LANDSCAPING AND PARKING:**

- A. Purpose and Intent: Within the districts created by the adoption of this Chapter, or by the adoption of amendments subsequent to this Chapter, there may exist developments of land (including parking areas and landscaping) which were legal prior to the adoption or amendment of this Chapter, but which under the terms of this Chapter or its amendments, are now prohibited, restricted or regulated. It is the intent of this Chapter to permit these nonconformities to continue until they are voluntarily removed or brought into compliance in conjunction with a proposed change in the development. It is intended that these nonconformities will not be enlarged, expanded, extended, or increased, except as provided in this Article.

It is recognized that conformance with landscaping requirements may have special problems related to the existing improvements and the scale of a proposed change to a project.

- B. Continuation: Landscaping or parking spaces not in conformity with the requirements of this Chapter, where such landscaping or parking spaces lawfully existed at the time such requirements became effective, may be continued except as otherwise provided in this Article.
- C. Extension: Nonconforming landscaping or parking spaces shall not be enlarged, expanded, extended or increased, except as provided in this Article.
- D. Proposals Which Require Conformance:

1. Nonconforming in Terms of Off-Street Park-

- D,1. ing: Adequate off-street parking is necessary for the general safety and convenience of City residents and to avoid congestion on public streets.

Required parking spaces shall be provided in conjunction with any addition of building floor area or a change of use which requires additional parking spaces.

2. Nonconforming in Terms of Landscaping: Landscaping is important in improving the overall appearance of the City and increasing the compatibility of different land uses. It is recognized that landscaping is difficult to install in conjunction with relatively small increments of change in a development project (such as relatively small building additions or changes of use) for the following reasons: (1) the landscaping elements of a development project should be planned in a comprehensive and coordinated manner which is not feasible to implement with relatively small increments of change; (2) nonconformities related to landscaping are difficult to resolve where the existing improvements limit the potential for a comprehensive landscaping plan to be implemented; and (3) fragmented ownership in a development project can further reduce the potential for a comprehensive landscaping plan to be implemented with relatively small increments of change.

The existing nonconforming landscaping of a development project is permitted to continue until one of the following changes occurs:

a. Any new construction or addition of building floor area consisting of fifty percent (50%) or more of the existing gross building floor area of the development project on the subject lot, or

b. Any change from a residential use to a nonresidential use (or vice versa) consisting of fifty percent (50%) or more of the existing gross building floor of the development project on the subject lot.

All required landscaping shall be provided in conjunction with either of the two (2) changes described above.

- D) All required landscaping shall be provided in conjunction with any new development of a vacant lot or with the total redevelopment (demolition and new construction) of a lot.

Administrative relief of the requirements of this Section 14-13-104 may be requested under Article 19. (Ord. 86-39)

14-13-105: **RECLASSIFICATION:** The foregoing provisions of this Article shall also apply to buildings, structures, use of land or uses which hereafter become nonconforming due to any reclassification of zones under this Chapter or any subsequent change in the regulations of this Article. (Ord. 80-131; Ord. 83-253)

CHAPTER 14 ZONING
ARTICLE 14 ANNEXED AREAS

SECTION:

14-14-101: Zoning of Annexed Areas

14-14-101: ZONING OF ANNEXED AREAS: The petitioner or petitioners of an annexation may request that the initial zoning of the land to be annexed occur contemporaneously with the annexation ordinance in accord with the Municipal Annexation Act of 1965 (Article 12 of Title 31 of the Colorado Revised Statutes 1973, as amended). If there is no request for initial zoning by petitioners for annexation or if the annexation is in accord with C.R.S. § 31-12-106, 1973 as amended, the initial zoning of the annexed land shall be accomplished within ninety (90) days of the effective date of the annexation ordinance. Such initial zoning shall be accomplished after at least one public hearing by the City Planning Commission and City Council jointly or singly to consider the initial zoning of the annexed land. The public hearing shall be advertised once at least ten (10) days prior to the hearing date in a newspaper of general circulation of the City. Other procedures contained in this Chapter pertaining to notice and hearing as the same apply to rezoning are not applicable to the initial zoning of annexed lands. (Ord. 80-161; 1968 Code 14-7)

CHAPTER 14 ZONING

ARTICLE 15 SUPPLEMENTARY REGULATIONS¹

SECTION:

- 14-15-101: Private Garages (Rep. by Ord. 86-124)
- 14-15-102: Public or Private Off-Street Parking Areas, Garages, Filling Stations, New and Used Automobiles, Truck and Trailer Sales Areas and Similar Uses for Public or Private Assemblage or the Conduct of Business or Industry, Which are Subject to Vehicular Traffic (Rep. by Ord. 86-124)
- 14-15-103: Liquid Fuel Dispensers (Rep. by Ord. 86-124)
- 14-15-104: Ingress and Egress from Public Streets or Highways (Rep. by Ord. 86-124)
- 14-15-105: Height Exceptions
- 14-15-106: Lot Area and Width Exceptions
- 14-15-107: Yards
- 14-15-108: Use of Required Yard by Another Building
- 14-15-109: Dwelling Over Stores
- 14-15-110: Partially Dedicated Streets
- 14-15-111: Corner Visibility
- 14-15-112: Special Developments
- 14-15-113: Objectionable Uses
- 14-15-114: Preservation Areas

14-15-101: **PRIVATE GARAGES:** (Rep. by Ord. 86-124)

14-15-102: **PUBLIC OR PRIVATE OFF-STREET PARKING AREAS, GARAGES, FILLING STATIONS, NEW AND USED AUTOMOBILES, TRUCK AND TRAILER SALES AREAS AND SIMILAR USES FOR PUBLIC OR PRIVATE ASSEMBLAGE OR THE CONDUCT OF BUSINESS OR INDUSTRY, WHICH ARE SUBJECT TO VEHICULAR TRAFFIC:** (Rep. by Ord. 86-124)

14-15-103: **LIQUID FUEL DISPENSERS:** (Rep. by Ord. 86-124)

14-15-104: **INGRESS AND EGRESS FROM PUBLIC STREETS OR HIGHWAYS:** (Rep. by Ord. 86-124)

14-15-105: HEIGHT EXCEPTIONS:

A. Height Limitations.

1. Place of Public Assembly: Hospitals, churches, schools and other places of public assembly, when located in a residential zone, may exceed the height limitations; provided, that for each foot by which the height of such building exceeds the minimum height requirements, the side and rear yard requirement shall be increased an additional foot more than that required.

2. Ornamental Features: Church spires, belfries, cupolas and domes, not for human occupancy, roof signs, parapet walls or cornices for ornament (and without windows) may exceed the height limitation; provided, that the parapet walls or cornices do not exceed the height limit by more than five feet (5').

3. TV antennas, CB radio antennas and similar accessory uses are excepted from the height limitations of this Chapter.

B. The Hearing Officer, the Planning Commission and the City Council, or the City Council and Board of Adjustments on appeal, shall not authorize any height limit in excess of the height limitations specified in the various zones unless a finding is made that the requirements of Section 14-7-103 have been met. (Ord. 80-131; Ord. 84-159; Ord. 85-11; Ord. 85-136)

14-15-106: LOT AREA AND WIDTH EXCEPTIONS:

A. Lots of Record: A one-family dwelling, where allowed as a principal permitted use, may be constructed on any lot existing and of record at the time this Chapter became effective.

B. Reduction in Lot Area or Width. No lot, existing and of record at the time this Chapter became effective shall be so reduced that the lot area or width shall be smaller than prescribed by this Chapter. No portion of a lot, necessary to provide the required area or width per dwelling

- B) unit, shall be separated in ownership from that portion of the lot upon which the building containing the dwelling units is located. (Ord. 85-135)

14-15-107: YARDS:

- A. Through Lots. At each end of a through lot there shall be a front yard of the depth required by this Chapter for the zone in which each street frontage is located.
- B. Semidetached Dwelling. For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one building occupying one lot; semidetached two-family and four-family dwellings, row dwellings and group dwellings.
- C. Side Yard for Narrow Lots. For each foot by which a lot in a residential zone existing and of record, and under separate ownership at the time this Chapter became effective is narrower than the minimum lot frontage requirement of this zone in which the lot is located, one and one-half inches (1 ½'') may be deducted from the required least width of any side yard and three inches (3'') from the sum of the least widths of both side yards for buildings not exceeding two (2) stories in height; provided, however, that no side yard shall be narrower at any point than ten feet (10') in an R zone, five feet (5') in an R-1-9000 zone, four feet (4') in R-1-6000 zones, and three feet (3') in R-2, R-4 and R-5 zones.
- D. Reduction of Yards. No required yard or other open space around an existing building shall be separated in ownership from the portion of the lot upon which the building is located.
- E. Projections in Yards.
1. Architectural Features: Cornice, eave belt course, sill, canopy or other similar architectural features not including bay window or vertical projection, may extend or project into a required front, side or rear yard not more than four inches (4'') for each foot of width of such yard and may extend or project into a required front, side or rear yard not more than thirty inches (30'')
 2. Chimneys: Chimneys may project into a

- E2) required front, side or rear yard not more than two feet (2'); provided, the width of such yard is not reduced to less than three feet (3').

3. A fire escape or open stairway may extend or project into any required front, side or rear yard; provided, the width of such yard is not reduced to less than three feet (3').

4. Porches, decks, or balconies may not extend or project into required front, side or rear yards. Uncovered decks and patios not exceeding eighteen inches (18'') in height measured from the finish floor to any adjacent point of the original grade may extend into required front, side or rear yards.

5. A stoop, twenty (20) square feet or less, may project into a required front or rear yard. (Ord. 80-131; Ord. 83-217; Ord. 85-43)

14-15-108: USE OF REQUIRED YARD BY ANOTHER BUILDING: No part of a yard, court or other open space provided about any building or structure for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard, court or other open space required under this Chapter for another building or structure. (Ord. 80-131)

14-15-109: DWELLING OVER STORES: In those zones in which commercial and industrial buildings are built one or more stories high with the upper one or more stories built above the commercial or industrial building for residential purposes, no side yard will be required for the residential portion of the building; provided, that the part of the building intended for residential use is not more than two (2) rooms deep from front to rear. (Ord. 80-131)

14-15-110: PARTIALLY DEDICATED STREETS: No building permit shall be issued for a building or structure on a lot which abuts a street dedicated to a portion of its required width and located on that side thereof from which no or partial dedication was secured. (Ord. 80-131)

14-15-111: CORNER VISIBILITY: In any zone, no fence, wall, plantings, sign, or other obstructions to vision between the heights of three feet (3') and ten feet (10') above street level shall be

permitted within the triangular area formed within fifty five feet (55') of the intersection of the curb lines of two (2) streets or a railroad right-of-way line and a street curb line. This provision may be waived by the Traffic Engineer where traffic control devices or other circumstances provide for adequate safety. The Traffic Engineer may require greater sight distance dimensions at the intersections of major streets, collector, arterial, and higher classification streets, depending on design speeds and street grades. The Traffic Engineer shall be consulted regarding the requirements at these intersections. (Ord. 80-131; Ord. 86-39)

14-15-112: SPECIAL DEVELOPMENTS:

- A. Unit Development. Where an entire frontage between two (2) intersecting streets is in an R-1-9000, R-1-6000 or R-2 zone, it can be designed and developed as a unit with one-family dwellings. The front yard requirement may be decreased by not more than five feet (5'); provided the average front yard for the entire frontage is not less than the minimum front yard required in the zone.
- B. Solar Orientation. If, for the reason of solar orientation, an entire area between two (2) intersecting streets in a block is developed cooperatively or as a unit, all yard regulations may be varied to carry out the purpose; provided, the Hearing Officer, after public notice and hearing, is of the opinion that such a development will not be injurious to adjacent property. (Ord. 80-131; Ord. 84-159)

14-15-113: OBJECTIONABLE USES: Any use in a particular zone shall be prohibited if such use would be injurious because of offensive fumes, odors, dust or other objectionable features to the immediate neighborhood, or if such use would be hazardous to the surrounding area on account of danger of fire or explosion.

- A. It shall be illegal to keep or store upon any premises within the City any automobile or similar machine which is inoperable, unsightly or dilapidated or is unlicensed or is being dismantled or is partially dismantled, unless said vehicle or machine is located within an enclosed building; provided, however, that this Chapter shall not apply to:

- A) 1. Vehicles which are kept in an approved, properly fenced junkyard or automobile dismantling yard in the M-1 or M-2 zone.
- 2. Vehicles as defined by recognized national automobile clubs as antiques or special interest vehicles -- subject to the following limitations:
 - a. No more than one vehicle, so defined, which has not been rebuilt, shall be kept outside of a building on any one property.
- B. It shall be illegal to maintain a junk yard except in M-1 and M-2 zones, and subject to the applicable restrictions of those zones.
- C. It shall be illegal to store any junk or junk vehicles, construct any structure or place a sign in any public right of way. (Ord. 80-131; Ord. 82-115; 85-43)

14-15-114: PRESERVATION AREAS:

- A. Minor Amendments: The Planning Director may administratively approve locational changes to "Preservation Area" boundaries shown on an approved plan or final plat for three (3) lots or less in any zone provided the unique and significant natural features and aesthetic qualities of the property are retained in their natural state, scenic or open condition.¹
 - 1. Submittal Requirements: Requests for minor locational changes to "Preservation Area" boundaries shall be submitted for administrative review as an individual lot hillside grading plan per Section 14-3-2908A3; Part 29 HS - Hillside Area (Overlay) of this Chapter. If the lot is platted and recorded, a certified property survey showing the amended "preservation area" boundary must be submitted and recorded in accordance to Section 15-3-209, Part 2, Platting Procedures, Article 3, Subdivision Regulations of the City Code.
 - 2. Appeals: Appeals of any administrative action under the provisions of this Section shall be made in accordance with Section 14-18-105E of this Chapter.
- B. Major Amendments: The City Planning Commission may grant and approve locational changes to "Preservation Area" boundaries

1. Refer to Article 2, Master Plans (Sections 14-2-102c6(f) and 14-2-106A5(a through h); Article 3, Part 1, PUD (Sections 14-3-106D2(b & c), 14-3-106L, 14-3-107B2, 4, 6 & 9 and 14-3-107C2(a & g); Article 3, Part 29, HS-Overlay (Sections 14-3-2901A and B, 14-3-2904A and 14-3-2905C and D; Article 5, Development Plans (Section 14-5-104H); and Comprehensive Plan; Goal 9.2 and Policy 9.2.1 for requirements to establish "preservation areas".

- B1) shown on an approved concept plan, development plan, preliminary and final plat involving four (4) lots or more provided all of the following criteria can be satisfied:

a. The proposed revisions to the "preservation area" will not have an adverse impact upon surrounding properties nor be inconsistent with any plans adopted by the City;

b. The property exhibits extraordinary and exceptional physical development constraints and hazards which restrict a reasonable use of the property outside of the current preservation area designation and boundary; and

c. That the significant and unique natural features and aesthetic qualities of the property can be retained in their natural state, scenic or open condition without the need of the preservation area through demonstrated alternative site mitigation measures. Such site mitigation measures may include, but are not limited to:

i. Alternative siting of structures which conserve the significant natural features and the aesthetic qualities of the site and enhance both on-site and off-site visual characteristics.

ii. Use of existing natural vegetation as well as supplementary native landscaping to the maximum possible extent to soften structural mass.

iii. Extensive reductions in all land disturbance activities on the property, especially in or near the site's sensitive and unique natural and aesthetic features.

iv. Designation of special development restrictions and techniques, i.e., building height, size, design, construction, etc. which can appropriately reduce and mitigate the impacts of the development.

2. Submittal Requirements: A revised or amended concept plan, development plan or preliminary/final plat, whichever is applicable, shall be submitted to the City Planning Commission for consideration in accordance with the requirements as specified by the zone of the property, Article 5, Development Plans of this Chapter, or Section 15-3-204, Platting Pro-

- B2) cedures, Part 2, Article 3, Subdivision Regulations. If the property or lots are platted and recorded, a certified property survey showing the amended "preservation area" boundary must be submitted and recorded in accordance to Section 15-3-209, Part 2, Platting Procedures, Article 3, Subdivision Regulations of the City Code.

3. Appeals: Appeals of City Planning Commission actions under the provisions of this Section shall be made in accordance with Section 14-17-113B of this Chapter. (Ord. 86-67)

CHAPTER 14 ZONING

ARTICLE 16 ZONING ENFORCEMENT AND ADMINISTRATION

SECTION:

- 14-16-101: Purpose
- 14-16-102: Comprehensive Zoning Enforcement Process
- 14-16-103: Responsibilities of the Zoning Administrator
- 14-16-104: Priority of Enforcement
- 14-16-105: Agreements to Abate
- 14-16-106: Right of Entry
- 14-16-107: Remedies
- 14-16-108: Notice and Order
- 14-16-109: Appeals
- 14-16-110: Failure to Comply With Notice and Order of Agreement to Abate
- 14-16-111: Lien Assessment
- 14-16-112: Emergency Abatement Orders
- 14-16-113: Procedures and Guidelines

14-16-101: **PURPOSE:** In establishing a comprehensive zoning enforcement program, the City Council recognizes that zoning enforcement is a means of effectuating compliance with the land development process within the City of Colorado Springs. The legislative intent of comprehensive, long-range and current planning controls can be implemented only by land use development activities in conformance with these controls. Improper or illegal conditions or development which are allowed to exist undermine the intent and efforts of these land use processes. The City Council hereby determines that a comprehensive zoning enforcement process is necessary and desirable to protect the public health, safety and welfare. The objectives of this comprehensive zoning enforcement process include reduction of the number of zoning violations; abatement of violations in a timely and efficient manner; protection for all citizens from zoning violations; and establishment of a fair process to abate violations. To achieve these objectives, the City Council recognizes and adopts the following general techniques or guidelines: provide consistency in the administration, interpretation and enforcement of the zoning and subdivision ordinances; recognize inherent differences in many types of zoning violations; develop a set of standard procedures for abating each type

of violation based upon their risk of harm to the public health, safety and welfare; prioritize the activities of the zoning enforcement staff; and establish a greater communication and understanding of zoning and zoning enforcement within the community. (Ord. 86-66)

14-16-102: **COMPREHENSIVE ZONING ENFORCEMENT PROCESS:** In order to effectuate the above goals and objectives with respect to zoning enforcement, the City Council hereby determines that a comprehensive zoning enforcement process is necessary and desirable. A comprehensive system of zoning enforcement will provide identification and reporting capabilities which capitalize on the advantages of each individual method which may be utilized to abate zoning violations. This comprehensive zoning enforcement process offers the best opportunity to achieve the City's goals and objectives for zoning enforcement. The zoning enforcement techniques which the Zoning Administrator is hereby authorized to utilize to meet the goals and objectives of this Article 16 shall include, but not be limited to, the complaint system of reporting zoning violations by citizens; initiation of complaints by zoning inspectors or other City officials; or through systematic or programmatic code enforcement programs. No systematic or programmatic code enforcement program shall be initiated for a neighborhood or area within the City of Colorado Springs without the prior approval of the City Manager. (Ord. 86-66)

14-16-103: **RESPONSIBILITIES OF THE ZONING ADMINISTRATOR:** The responsibilities of the Zoning Administrator include management of zoning enforcement operations, supervision of enforcement staff, establishment of specific zoning enforcement procedures pursuant to the requirements of Section 14-16-113, making decisions on conditions for abating violations and coordinating with other code enforcement officers and agencies within the City of Colorado Springs as well as El Paso County. The Zoning Administrator shall also have such other duties and responsibilities as established by the Planning Director. (Ord. 86-66)

CHAPTER 14 ZONING

ARTICLE 16 BOARD OF ADJUSTMENT

SECTION:

- 14-16-101: Organization
- 14-16-102: Jurisdiction of the Board of Adjustment
- 14-16-103: Procedural Rules

14-16-101: ORGANIZATION:

- A. **Members.** The Board of Adjustment shall consist of seven (7) members appointed by the City Council. Members shall be resident taxpayers of the City.
- B. **Terms of Office.** One member shall be appointed for a term of one year, two (2) for a term of two (2) years and two (2) for a term of three (3) years. Thereafter, all appointments to the Board shall be made for terms of three (3) years each. When vacancies occur prior to the expiration of a regular term, they shall be filled in the same manner as regular appointments, but shall serve only until the expiration of the term in which the vacancy occurred.
- C. **Chairperson.** The members of the Board shall elect from among their number a chairperson to serve for a term of one year.
- D. **In the performance of its duties,** the Board may incur such expenses as shall be authorized by the City Council, but no member shall receive any compensation for his services. (Ord. 80-131)

14-16-102: JURISDICTION OF THE BOARD OF ADJUSTMENT:

- A. **Variance.** The Board shall have jurisdiction and power in passing upon appeals to grant

- A) variances from the strict application of the dimensional requirements of this Chapter after a public hearing. However, in the event that an appeal of the Hearing Officer decision is made pursuant to Section 14-18-114B,3, or if an applicant is seeking a change of zone, conditional use or use variance and if such request includes a variance from the dimensional requirements of this Chapter, the Planning Commission and City Council, or the City Council on appeal from the Planning Commission or Hearing Officer shall have the power to consider the variance in the dimensional requirements of this Chapter simultaneously with consideration of the zone change, conditional use or use variance. In the matter of granting such a variance, the Board, the hearing Officer, Planning Commission or City Council shall not grant the requested variance unless it is determined that all criteria for granting a variance as listed in Section 14-7-103 of this Chapter are met.
- B. **Authority to Require Conditions.** The Board shall also have the authority to impose any reasonable condition which might be necessary to properly protect the general welfare when granting variances.
- C. **Practice and Procedure in Granting Variances of the Dimensional Requirements of this Chapter.** The practice and procedure of the Board of Adjustment in granting dimensional variances where slight differences are involved under its jurisdiction for granting variances and authority for making interpretations of the application to specific cases is concurred in and confirmed.
- D. **All permits necessary for the projection of the work** applying to an approval granted by the Board shall be obtained within six (6) months of

- D) the hearing in which it was granted and construction commenced within one year of said date, unless extension is granted by the Board; otherwise such approval shall be considered void. (Ord. 80-31; Ord. 82-186; Ord. 84-159; Ord. 85-11; Ord. 85-136)

14-16-103: PROCEDURAL RULES:

- A. Meetings. All meetings of the Board shall be held at the call of the chairperson and all meetings of the Board shall be open to the public.
- B. Rules. The Board shall have the power to adopt all rules necessary for the transaction of its business and for the carrying out of the powers granted to it by the provisions of this Chapter.
- C. Voting. The concurring vote of a majority of the members of the Board at a meeting attended by at least four (4) members shall be necessary to revise any decision or order of the Planning Director, or of appeals from the Hearing Officer, or to make an interpretation, or to decide in favor of the applicant or any matter within the discretion of the Board, upon which it is required to pass under this Chapter or to effect any variations in the application of the physical requirements of this Chapter.
- D. Record of Meetings. The Board shall keep minutes of its proceedings and shall maintain records of its official actions. Every decision or determination of the Board shall be filed immediately in the office of the Planning Department and shall be a public record.
- E. Appeal. The decision of the Board shall be final. The only appeal from the Board shall be to the courts of the State of Colorado.
- F. 1. Whenever a final decision has been rendered by the Board of Adjustment or under the authority of Section 14-16-102B by the Planning Commission or City Council denying an application for a variance, the Hearing Officer or the Board of Adjustment or the Planning Commission or City Council shall not consider any reapplication for the same variance affecting the same property or any part thereof for a period of twelve (12) months from the date of final action denying the variance, except as provided in subsection F2 of this Section.
2. An applicant subject to the limitation of subsection F1 may apply to the Planning Director for a waiver of this limitation by written request specifying and showing that because of a change of circumstances from the date of denial of the variance that the property cannot be used for any purpose to which it may be reasonably adapted without the variance that the applicant requests. Any decision by the Planning Director may be appealed to the Hearing Officer, Board of Adjustments, Planning Commission, or City Council, as applicable, that finally denied the variance by submitting a written request setting forth briefly the basis of the applicant's appeal within ten (10) days from the date of decision by the Planning Director. (Ord. 80-131; Ord. 83-312; 84-159)

14-16-104: PRIORITY OF ENFORCEMENT: The Zoning Administrator shall have the authority to establish priorities for the abatement of zoning violations and implement appropriate procedures to abate each category of violations so established. The procedures established shall be accomplished in accordance with Section 14-16-113. (Ord. 86-66)

14-16-105: AGREEMENTS TO ABATE: The Zoning Administrator or his designee shall have authority to enter into agreements with violators for the abatement of zoning violations. The procedures and the form of agreements to abate shall be established pursuant to the requirements of Section 14-16-113. (Ord. 86-66)

14-16-106: RIGHT OF ENTRY: The Zoning Administrator, or his designees, shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out his duties in the enforcement of Chapters 14 and 15, including abatement of violations. In the event that the owner or occupant of any premises located within the City refuses to permit entry to the Zoning Administrator or his designee when such entry is sought pursuant to this Article 16, the Zoning Administrator may make application to any judge of the Municipal Court of the City for the issuance of an entry warrant. Such sworn application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of the requirements of Chapters 14 and 15 of the City Code exists on such premises, or that a violation in fact exists and must be abated. Any warrant issued pursuant to such application shall command such owner or occupant to permit entry to the Zoning Administrator or his designee or representative for the purposes stated therein. (Ord. 86-66)

14-16-107: REMEDIES: The Zoning Administrator or designees shall have, but not by way of limitation, the following remedies available to him or his designees with respect to abatement of zoning violations:

A. No Action: After careful consideration of the facts and circumstances, the Zoning Administrator may authorize no action be taken on a complaint of an alleged zoning violation. This alternative may be utilized only upon the prior written approval of the Planning Director.

- B. Informal Contact: The Zoning Administrator or his designee shall have the authority to effectuate the abatement of zoning violations through informal meetings or conversations.
- C. Agreement to Abate: The Zoning Administrator or his designee may enter into an agreement with a violator whereby the violator agrees to abate the violation within a certain time frame based upon certain conditions within the agreement.
- D. Notice and Order: The Zoning Administrator or his designee may issue a notice and order to the violator ordering the cessation of illegal condition within a specified period of time based upon the nature of the violation.
- E. Civil Action: The Zoning Administrator, with the concurrence of the Planning Director, may request the City Attorney to initiate a civil action in the District Court for injunctive relief to abate violations of Chapters 14 and 15 of the City Code.
- F. Summary Abatement: Upon the advice of the City Attorney, the Zoning Administrator shall have the power to authorize summary abatement of a zoning violation which creates an imminent hazard to the public health, safety and welfare.
- G. Additional Remedies: Remedies provided in this Article shall be cumulative and in addition to any other remedies which may be available to the Zoning Administrator. Nothing contained herein shall be construed to preclude the Zoning Administrator from seeking such other remedies in addition to, or in lieu thereof, the remedies herein granted.

14-16-108: NOTICE AND ORDER: Whenever abatement proceedings are commenced by the filing of a notice and order by the Zoning Administrator or his designee, such notice and order shall:

- A. Be in writing.
- B. Be personally served whenever feasible on the owner, or agent of the owner, other persons with an interest in the property, and/or occupant of such premises, as applicable. When such personal service is not feasible, the notice and order must either be posted conspicuously at

- B) the premises or mailed to the last known address of such person by certified mail, return receipt requested.
- C. Describe with particularity the asserted violation existing on the premises or property which gives rise to the issuance of the notice and order.
- D. Specify the period within which the violation must be abated or otherwise corrected.
- E. State that an appeal is available to the City of Colorado Springs Hearing Officer pursuant to Article 18 of Chapter 14, provided, that a written application therefor is made within ten (10) days of service or posting or receipt of such notice and order. (Ord. 86-66)

14-16-109: APPEALS: All appeals of zoning enforcement decisions made by the Zoning Administrator or his designee relating to enforcement of violations of Chapters 14 and 15 shall be in accordance with the provisions of Section 14-17-113 of the Code of the City of Colorado Springs 1980, as amended. A perfected appeal shall operate as a stay of the zoning enforcement decision unless the Zoning Administrator certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare. (Ord. 86-66)

14-16-110: FAILURE TO COMPLY WITH NOTICE AND ORDER OR AGREEMENT TO ABATE: In the event that any notice and order issued or agreement to abate entered into pursuant to this Article 16 is not complied with according to its terms, the Zoning Administrator may request that the condition giving rise to the issuance of the notice and order or the agreement be abated. The procedure as outlined in Chapter 7, Article 1 of this Code for the collection of the costs and expenses thereof shall apply independently in addition to the remedies provided by this Article for violation of any provision of Chapters 14 and 15 of the City Code. (Ord. 86-66)

14-16-111: LIEN ASSESSMENT: In the event that the owner or agent of the owner shall fail with in thirty (30) days after billing to pay the costs and expenses for the removal, correction or the abatement of the violation giving rise to the issuance of the order to abate, a lien may be assessed against

the property for such costs in accordance with Chapter 7, Article 1 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 86-66)

14-16-112: EMERGENCY ABATEMENT ORDERS:

- A. Whenever the Zoning Administrator deems that an emergency exists which requires immediate action to protect the public health, safety and welfare, he may, without prior notice or hearing, issue an order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this Article to the contrary, such order shall be effective immediately.
- B. It shall be unlawful for any person to whom such emergency order is issued to fail to comply therewith immediately. In the event that such person to whom the emergency order was issued fails or refuses to immediately comply therewith, the Zoning Administrator may request, without prior notice to the owner, occupant or agent of the owner, that the dangerous condition be removed, corrected or otherwise abated to such an extent that it is no longer an imminent hazard to the public health, safety and welfare. Except as otherwise provided herein, the provisions of Sections 14-16-111 and 10-7-107 shall apply to such removal, correction or other abatement. (Ord. 86-66)

14-16-113: PROCEDURES AND GUIDELINES:

The Zoning Administrator shall be empowered to promulgate procedures and guidelines to accomplish the purposes of this Article 16. Such procedures and guidelines shall not be effective until approved by the Planning Director with the advice of the City Manager or his designee and the City Attorney. (Ord. 86-66)

CHAPTER 14 ZONING

ARTICLE 17 ADMINISTRATION

SECTION:

- 14-17-101: Enforcing Officials; Right of Entry Stop Orders (Rep. by Ord. 86-66)
- 14-17-102: Building permits
- 14-17-103: Pending Application for Building Permits; Changes Not Required
- 14-17-104: Certificate of Occupancy; Changes in Use
- 14-17-105: Advertising Costs Paid by Applicants for Variances, Etc.
- 14-17-106: Penalty for Violation of Chapter
- 14-17-107: Uses Not Allowed
- 14-17-108: Public Nuisance (Rep. by Ord. 86-66)
- 14-17-109: Amendments to Chapter
- 14-17-110: Limitation on Applying for Rezoning
- 14-17-111: Public Notice
- 14-17-112: Action by Planning Commission; Majority Required
- 14-17-113: Appeals

14-17-101: **ENFORCING OFFICIALS; RIGHT OF ENTRY; STOP ORDERS:** (Rep. by Ord. 86-66)

14-17-102: **BUILDING PERMITS:**¹

- A. Required. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures or to store building material or construct entrances or parking lots, commence the moving, structural alterations, conversions, extensions, enlargements, alterations or repairs, except repairs consisting only of painting or wallpapering, changing the fixtures and reroofing in residential zones, of any structure, including accessory structures, until a building permit for such work has been issued.
- B. Requirements. Every application for a building permit shall be accompanied by two (2) copies of a plan or plat drawn to scale and showing the following in sufficient detail to enable the Zoning Administrator or designee to ascertain whether the proposed excavation, construction,

- B) reconstruction or conversion, moving or alteration is in conformance with this Chapter:

1. Lot Dimensions and Corners. The actual shape, proportion and dimensions of the lot to be built upon and satisfactory evidence that actual corners of the lot are known and are established on the ground.

2. Proposed Structures. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.

3. Uses of Structures. The existing and intended use of all such buildings or other structures.

4. Existing Yards. The dimensions of all yards and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Chapter are being observed.

5. Building Code. Any other information as required by the Building Code.

- C. Issuance. If the proposed excavation, construction, moving or alteration as set forth in the application is in conformity with the provisions of this Chapter or any other ordinance of the City, a building permit may be issued.
- D. Disapproval. If an application for a building permit is not approved, the reason for such disapproval shall be stated in writing on the application.
- E. Null or Void Permits. Any permit issued in conflict with the provisions of this Chapter shall be null and void and may not be construed as waiving any provision of this Chapter. (Ord. 80-131; Ord. 86-66)

14-17-103: **PENDING APPLICATION FOR BUILDING PERMITS; CHANGES NOT REQUIRED:** Nothing contained in this Chapter shall require any change in the plans, construction or

¹. See also Article 3 of Chapter 16 for procedures to applications for building permits.

designated use of any building, structure or part thereof, for which a building permit has been granted before the time this Chapter became effective, and the construction of which, from such plans, shall have been started within thirty (30) days of the issuance of such permit and diligently prosecuted to completion. (Ord. 80-131)

14-17-104: CERTIFICATE OF OCCUPANCY; CHANGES IN USE:

- A. Required. After the effective date of this Chapter, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building other than for single-family residences or for farming or gardening shall be made, nor shall any new building be occupied for any purpose other than for single-family residence use until a certificate of occupancy has been issued by the Building Inspector of the City.
- B. Record Kept by Building Inspector. A record of all certificates of occupancy shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or a building affected by such certificate of occupancy.
- C. Nonconforming Uses Must Apply for Certificate. A certificate shall be required of all nonconforming uses of land or buildings created at the time this Chapter became effective. Application for such certificate of occupancy for nonconforming uses shall be filed with the Building Inspector by the owner or lessee of the land or building occupied by such nonconforming use within one year from the time this Chapter became effective. It shall be the duty of the Building Inspector to issue a certificate of occupancy for a nonconforming use, but failure to apply for such certificate of occupancy for a nonconforming use or failure of the Building Inspector to issue such certificate of occupancy for a nonconforming use shall be considered evidence that such nonconforming use did not exist at the time this Chapter became effective. (Ord. 80-131)

14-17-105: ADVERTISING COSTS PAID BY APPLICANTS FOR VARIANCES, ETC.:

Persons applying for variances, conditional uses or zoning amendments must pay for the cost of advertising for such requests. (Ord. 80-131)

14-17-106: PENALTY FOR VIOLATION OF CHAPTER:

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Chapter shall be subject to the remedies set forth in Article 16 of Chapter 14 of this Code. Each day that a violation of this Chapter continues to exist shall be considered a separate violation. (Ord. 80-131; Ord. 86-66)

14-17-107: USES NOT ALLOWED: Any use not identified in a specific zone will be deemed to mean the use is not allowed in that specific zone unless authorized by the proper City officials. (Ord. 80-131)

14-17-108: PUBLIC NUISANCE: (Rep. by Ord. 86-66)

14-17-109: AMENDMENTS TO CHAPTER:

- A. Requirement for Change. Whenever the public necessity, convenience, general welfare or good zoning practice justifies such action and after consideration by the Planning Commission, the City Council may change a zone or the regulations established by this Chapter in the manner as hereinafter set forth. A public hearing shall not be required for a change in regulation.
- B. Initiation of Changes. A proposed change of zone may be initiated by the City Council, Planning Commission or by application signed by one or more owners of property to be zoned, or by a purchaser thereof under contract in writing duly executed by both buyer and seller or by owner or owners affected by said zoning, or by the agent of any of the foregoing duly authorized to do so in writing. An application for change of zone shall be filed with the Commission in the Department of City Planning upon a form and accompanied by such data as may be prescribed for that purpose by the Commission.
- C. Creation of Nonconforming Uses. The lawful use of any building or of any land existing at the time of any change to the "Zoning Ordinance of the City of Colorado Springs" although such use is not in conformance with the provisions of the Zoning Chapter may be continued, except as otherwise provided in this Code. (Ord. 80-131)

14-17-110: LIMITATION ON APPLYING FOR REZONING: Whenever a change of zone, a conditional use, or a use variance has been finally disapproved by the Planning Commission, City Council, or Hearing Officer, the Commission, City Council, or Hearing Officer shall not consider any further application for the same change in zone, conditional use, or use variance affecting the same property or a part thereof for a period of twelve (12) months from the final action of disapproval. The applicant for said zone change, conditional use, or use variance may apply to the Planning Director for a variance to this limitation by specifying and showing that because of a change of circumstances, the existing zoning precludes the use of the property for any purpose to which it may be reasonably adapted, and that because of such change in circumstances, the landowner is deprived of all reasonable uses of his land and that the land is not susceptible to any reasonable use under the existing zoning. Any decision by the Planning Director may be appealed in accordance with this Code. (Ord. 86-214)

14-17-111: PUBLIC NOTICE: Public notice for a public hearing to be held by the Planning Commission on any item and for those items appealed from the Planning Commission to the City Council, shall consist of:

- A. Publication of notice in a newspaper of general circulation in the City, designated for the purpose by the City Council, not more than thirty (30) days or less than ten (10) days prior to the date of hearing or other matter about which the notice is given; and
- B. By posting upon a sign the notice to be given at least ten (10) days prior to the hearing or other matter about which the notice is given. Said sign shall be placed at points along the perimeter of the property concerned so as to be visible from any adjacent ways or streets, and so located as to provide opportunity for actual notice to owners of surrounding properties and the public. Posting may be outside the perimeter if in the opinion of the Planning Director the posting offers more visibility for public notice.
- C. If the notice set forth in subsections A and B has been provided, no further notice is required if the Planning Commission or the City Council adjourns the hearing to a date certain within thirteen (13) days after the hearing.

- D. If the Planning Commission or City Council adjourns the hearing to a date occurring more than thirteen (13) days after the hearing, public notice meeting the requirements of subsection A and subsection B of this Section is required. (Ord. 80-131; Ord. 85-237)

14-17-112: ACTION BY PLANNING COMMISSION; MAJORITY REQUIRED: Any action of the Planning Commission in connection with this Chapter shall be by majority vote at a meeting attended by at least five (5) members. (Ord. 80-131)

14-17-113: APPEALS:

- A. Appeals from Administrative Decisions.

1. Any person aggrieved by any decision made by an administrative officer of the City on a matter which is under the jurisdiction of a Hearing Officer may appeal such decision to the Hearing Officer by filing with the Planning Department, within ten (10) days from the date of the decision, by written notice stating and specifying briefly the grounds of appeal. The Planning Department shall place such appeal on the Hearing Officer agenda at the next regularly scheduled meeting of the Hearing Officer occurring at least twenty two (22) days thereafter. The Hearing Officer, after a public hearing, shall have the power to affirm, reverse or modify such decisions.

2. Any person aggrieved by any decision made by an administrative officer of the City in relation to this Chapter, except for those matters under the jurisdiction of the Hearing Officer under Section 14-17-113A1, may appeal such decision to the Planning Commission by filing with the Planning Department within ten (10) days after the action appealed by written notice specifying briefly the grounds of appeal. The Planning Department shall place such appeal on the Planning Commission agenda at the next regularly scheduled meeting of the Planning Commission occurring at least fifteen (15) days thereafter. The Planning Commission, after a public hearing shall have the power to affirm, reverse or modify such action.

- B. Appeal from the Planning Commission. Any person may appeal to the City Council any action

- B) of the Planning Commission in relation to this Chapter, where such action was adverse to such person by filing with the City Clerk a written notice of appeal. Such notice of appeal shall be filed with the City Clerk no later than six (6) days after the action from which appeal is taken, and shall briefly state the grounds upon which the appeal is based.
- C. Action and Procedure by the City Council. Upon receipt of the notice of appeal required by Section 14-17-113B of this Chapter, the City Clerk shall schedule a public hearing before the City Council at the next regular meeting of the City Council occurring at least thirteen (13) days thereafter. The City Council shall hold a public hearing on appeals from the Planning Commission upon the date so scheduled or upon the date to which the same may be postponed or continued. Before the public hearing is commenced, the City Council may entertain a motion to uphold the action of the Planning Commission or refer the matter back to the Planning Commission for further consideration and recommendation.
- D. Postponement of Items on Appeal to the City Council. Any person who has made an appeal from a decision of the Planning Commission in accordance with this Section may, as a matter of course, postpone Council consideration of such appeal to the next following regular Council meeting. Request for additional postponement shall be only for good cause shown to the City Council and found by the City Council. If new or additional evidence is set forth as such grounds for a request for a postponement, the appeal shall forthwith be referred to the Planning Commission for further hearing and recommendations.
- E. City Council's Powers Upon Appeal. The City Council shall have the power to refer any matter so appealed back to the Planning Commission for further consideration, affirm the action of the Planning Commission, reverse the action of the Planning Commission or modify said action.
- F. Actions of the Planning Commission Not Appealed. Without further notice or hearing, the City Council may refer back to the Planning Commission, affirm, reverse or modify any action of the Planning Commission which appears on the City Council Agenda as an item from which appeal has not been taken.
- G. Planning Department File. In all matters before the City Council relating to the actions of the Planning Commission, the entire file of the Planning Department pertaining to such matters shall be made a part of the record of the City Council. Such file shall include but not be limited to: the Planning Commission minutes, maps, drawings, departmental reports and application.
- H. Appeal From the Hearing Officer. All appeals from decisions of the Hearing Officer shall be pursuant to the requirements of Section 14-18-114 of the Code of the City of Colorado Springs 1980, as amended. (Ord. 80-131; Ord. 84-149; Ord. 86-66)

CHAPTER 14 ZONING

ARTICLE 18 HEARING OFFICER

SECTION:

- 14-18-101: Purpose
- 14-18-102: Creation
- 14-18-103: Qualifications
- 14-18-104: Deputy Hearing Officer
- 14-18-105: Jurisdiction
- 14-18-106: Referral
- 14-18-107: Notice Requirements
- 14-18-108: Public Hearing
- 14-18-109: Planning Department Report and Recommendation
- 14-18-110: Parties in Interest
- 14-18-111: Hearing Officer's Decision
- 14-18-112: Conduct of the Hearing Officer
- 14-18-113: Evidence
- 14-18-114: Appeals from Hearing Officer Decisions
- 14-18-115: Interpretations
- 14-18-116: Enforcement
- 14-18-117: Refusal to Comply With Decision
- 14-18-118: Rules and Regulations
- 14-18-119: Appeals to the Hearing Officer

14-18-101: **PURPOSE:** It is the purpose of this Article to provide efficient and timely public review of development proposals; to ensure fairness and due process in public hearings; to administratively separate the enforcement of Chapter 14 from the process of adopting legislative land use plans; and to provide for an informal and more efficient method of enforcing the requirements of Chapter 14. (Ord. 84-117)

14-18-102: **CREATION:** There is hereby created in the Community Development Department a Hearing Officer. The Hearing Officer shall hold public hearings pursuant to the provisions set forth in this Article 18, and make decisions as provided herein. The Hearing Officer shall be appointed by the Director of Community Development, with the consent of the City Council. (Ord. 84-117)

14-18-103: **QUALIFICATIONS:** The Hearing Officer should have such training or experience as will qualify her to conduct administrative or quasi-judicial hearings on land use regulatory matters. (Ord. 84-117)

14-18-104: **DEPUTY HEARING OFFICER:** There is hereby created the position of Deputy Hearing Officer who shall, in the event of the absence or inability of the Hearing Officer to act, have all the duties and powers of the Hearing Officer. The Deputy Hearing Officer shall be appointed pursuant to Section 14-18-102, and should meet the qualifications set forth in Section 14-18-103. (Ord. 84-117; Ord. 85-11)

14-18-105: **JURISDICTION:** The Hearing Officer shall have jurisdiction over the following matters:

- A. Applications for all variances to the requirements of Chapter 14 except when such variance is sought in conjunction with a request for rezoning or conditional use.
- B. Appeals from all notices and orders alleging violations of the provisions of Chapters 14 and 15.
- C. Appeals from administrative decisions relating to the provisions of Section 14-4-102, Temporary Uses, of the Code of the City of Colorado Springs 1980, as amended.
- D. Appeals from administrative decisions relating to the provision of Article 13 (Nonconforming Use), of Chapter 14, Zoning, of the Code of the City of Colorado Springs 1980, as amended.
- E. Appeals from administrative decisions relating to Hillside Plot Plans under Section 14-3-2908A,3 of the Code of the City of Colorado Springs 1980, as amended.
- F. Street name changes, including variances of regulations pertaining thereto.
- G. Any matter appealed to the Hearing Officer pursuant to the requirements of Section 14-17-113 of the Code of the City of Colorado Springs 1980, as amended.
- H. Appeals from Administrative decisions relating to any provisions of Chapter 14 of the Code of the City of Colorado Springs 1980, as amended, when relief from such provisions, upon application, may be heard and decided upon by the Hearing Officer pursuant to this Section (Ord. 84-117; Ord. 85-11; Ord. 86-39; Ord. 86-66; Ord. 86-214)

14-18-106: **REFERRAL:** In the sole discretion of the Hearing Officer, any matter which would otherwise be subject to the jurisdiction set forth in Section 14-18-105 above may be referred to the Planning Commission; provided, however, that any referrals must be made prior to a decision by the Hearing Officer on the matter which is the subject of the referral. (Ord. 84-117; Ord. 85-11)

14-18-107: NOTICE REQUIREMENTS:

- A. Every matter under the jurisdiction of the Hearing Officer shall be published in a newspaper of general circulation in the City of Colorado Springs.

Any application for a street name change or a variance to the requirements of Chapter 14 except for use variances pursuant to Section 14-7-101, et. seq. shall be published at least ten (10) days prior to the date of the hearing.

Any appeal shall be published at least three (3) days prior to the date of the hearing.

Information in such publication shall include:

1. The date, time and place of hearing;
2. Description of the subject property, reasonably calculated to convey its actual location, including, but not limited to, numeric address and street name, when officially assigned, and notation on a map of the area in which the subject property is located;
3. The nature and extent of the requested variance or street name;
4. Notice that interested parties may appeal and be heard;
5. Notice that the hearing shall be conducted pursuant to the rules of procedure adopted by the Hearing Officer; and
6. The address and telephone number of the Director of Planning or his designate from whom additional information may be obtained.

- B. Notice of a public hearing before the Hearing Officer regarding any application for a street name change or a variance to the requirements of Chapter 14 except for use variances pursuant to Section 14-7-101, et. seq., shall be posted in a conspicuous place in the immediate vicinity

- B) of the property which is the subject of the hearing at least ten (10) days prior to the date of the hearing.

Information in such posting shall include:

1. The date, time and place of hearing;
2. Description of the subject property, reasonably calculated to convey its actual location, including, but not limited to, numeric address and street name, when officially assigned;
3. The nature and extent of the requested variance or street name;
4. Notice that interested parties may appear and be heard;
5. The address and telephone number of the Director of Planning or his designate from whom additional information may be obtained.

- C. All files in the custody of the Planning Department for the Hearing Officer shall be open for public inspection during regular office hours. Such files shall not be removed from the Planning Department or inspected at other times by any person; except that such files may be removed or inspected at other times by any person pursuant to Court Order or by permission of the Hearing Officer. (Ord. 85-272)

14-18-108: **PUBLIC HEARING:** Before rendering any decision on any matter subject to jurisdiction of the Hearing Officer, the Hearing Officer shall hold at least one public hearing thereon and may reopen any matter for additional evidence. Notice of the time and place of the public hearing shall be given as set forth in Section 14-18-107. The public hearing may be continued from time to time as necessary to gather additional information, and no additional notice need be given if the hearing be adjourned to a date certain by the Hearing Officer. A verbatim record of the public hearing shall be required, and the Hearing Officer shall preserve her findings of fact and conclusion of law in the record for each item or matter before her. (Ord. 84-117; Ord. 85-11; Ord. 85-272; Ord. 86-214)

14-18-109: **PLANNING DEPARTMENT REPORT AND RECOMMENDATION:** The Planning Department shall coordinate the review of and assemble comments on all matters which are subject to the Hearing Officer's jurisdiction; and may prepare

or cause to be prepared a report summarizing the factors involved, and may make or cause to be made a recommendation thereon at the public hearing at which matter will be heard. (Ord. 84-117; Ord. 85-272)

14-18-110: PARTIES IN INTEREST: The following persons, only if making an appearance of record, are hereby defined as parties and, shall be entitled by themselves or through a representative, to participate in a public hearing before the Hearing Officer:

- A. The applicant or the appellant;
- B. Either an owner or lessee of property which is directly affected by the matter which is before the Hearing Officer;
- C. Any person, organization, group or governmental entity who demonstrates to the Hearing Officer that he has a significant interest in the subject matter of the hearing;
- D. Any member of the City Administration. For purposes of this Section, an "appearance of record" shall mean either:
 - 1. An oral statement sufficiently identifying the person making the same or by his representative, made at the hearing; or
 - 2. A written statement giving the name and address of the person making the appearance, signed by him or his representative, and filed with the Hearing Officer either prior to the commencement of the hearing or when permitted by the Hearing Officer. (Ord. 84-117; Ord. 85-272)

14-18-111: HEARING OFFICER'S DECISION:

Subject to the requirements of Section 14-18-105 above, unless the matter is referred to the Planning Commission, the Hearing Officer shall make a decision on each item which is before her. The decision of the Hearing Officer shall be made after considering all of the relevant evidence before her and applying that evidence to the requirements of the Code of the City of Colorado Springs 1980, as amended. When the Hearing Officer renders a decision, she shall make findings of fact and conclusions of law which support her decision, and the findings and conclusions shall set forth and demonstrate the manner in which the decision meets the requirements of the Code of the City of Colorado Springs 1980, as amended. The

verbatim record of the hearing shall be preserved for at least sixty (60) days after final agency action by the Hearing Officer or, if appealed pursuant to this Article 18, at least sixty (60) days after final agency action by the appellate body. Whenever particular criteria is set forth in the Code of the City of Colorado Springs 1980, as amended, with respect to the matter which is before the Hearing Officer, then the Hearing Officer shall apply the findings of fact to that criteria prior to making any decision.

The Hearing Officer may require such conditions for any matter as she deems reasonable and necessary in order to further the purposes of the Code of the City of Colorado Springs 1980, as amended. Violations of such conditions, when made a part of the terms under which any matter is decided, shall be deemed a violation of the Hearing Officer's decision.

The decision of the Hearing Officer shall be final agency action unless an appeal is filed pursuant to Section 14-18-114, or a rehearing is requested before the Hearing Officer within the applicable appeal period. (Ord. 84-117; Ord. 85-11; Ord. 85-272; Ord. 86-214)

14-18-112: CONDUCT OF THE HEARING OFFICER:

- A. The Hearing Officer shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate; and
- B. The Hearing Officer shall not use nor rely upon any communication, reports staff memoranda, or other materials prepared in connection with the particular case unless made a part of the record in the case; and
- C. The Hearing Officer shall not inspect the site with any party or his representative unless all parties are given an opportunity to be present. (Ord. 84-117)

14-18-113: EVIDENCE: With respect to determining findings of fact and conclusions of law, the Hearing Officer may receive oral testimony and demonstrative or written evidence, as long as the evidence has any tendency to make the existence of any fact that is of consequence to the determination of the matter before her more probable or less probable than it would be without the evidence. Hearsay shall be admissible except that the Hearing Officer may take into account that such evidence is

hearsay with respect to the weight given to it. In any event, the Hearing Officer may not admit any evidence which a reasonable and prudent person would not rely upon in the conduct of their everyday affairs. (Ord. 84-117)

14-18-114: APPEALS FROM HEARING OFFICER DECISIONS:

- A. The applicant or any other party in interest may appeal a decision of the Hearing Officer, provided such party files with the City Clerk/Treasurer a written notice of appeal within ten (10) days after the date of the decision by the Hearing Officer. The notice of appeal shall state the grounds of appeal.
- B. In the event a perfected appeal is filed with respect to any matter under the jurisdiction of the Hearing Officer, the matter appealed shall be forwarded to the City Council, along with all of the evidence admitted by the Hearing Officer, and the transcript of the proceedings before the Hearing Officer with respect to that particular matter. The appeal shall be heard at the next regular City Council meeting occurring at least ten (10) days after the certification of the record by the Director of Planning to the City Council.
- C. On appeal to the City Council, the notice requirements set forth in Section 14-18-107 and the public hearing requirements set forth in Section 14-18-108 shall be followed. Upon appeal to the City Council of the Hearing Officer's decision, the Council shall review the record, including the transcript of proceedings and evidence before the Hearing Officer, and shall determine whether or not there is substantial evidence in the record to support the decision of the Hearing Officer. If there is substantial evidence in the record to support the decision of the Hearing Officer, then Council shall affirm such decision of the Hearing Officer. If there is not substantial evidence in the record to support the decision of the Hearing Officer, then the Council may reverse the decision of the Hearing Officer, or remand the matter back to the Hearing Officer for further proceedings. No new evidence shall be submitted to the Council unless a majority of the Council determines that such evidence could not have been reasonably presented at the time the matter was heard

- C) before the Hearing Officer. If the Council decides to hear such new evidence, it may hear the new evidence or remand the matter back to the Hearing Officer for further proceedings. Notwithstanding any requirements in subsection B to the contrary, the City Council shall have the discretion to modify, reject, or add to the conditions of record established by the Hearing Officer with respect to any matter before it on appeal. A verbatim record of the proceedings before the City Council shall be made by electronic recording device or other appropriate method.
- D. On such appeals, the decision of the City Council shall be final agency action, and shall be subject to review by the courts pursuant to applicable rules and statutes, unless the matter is remanded to the Hearing Officer.
- E. A perfected appeal shall operate as a stay of the Hearing Officer's decision, unless the Hearing Officer certifies in writing that a stay would cause or result in an imminent hazard to the public health, safety and welfare. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court on application, on notice to the Hearing Officer from whom the appeal is taken, and due cause shown.
- F. In the event that the decision of the Hearing Officer is not appealed to the City Council within ten (10) days from the date of the decision, then said decision shall constitute final agency action for all purposes under the applicable State statutes and rules and regulations. The failure to appeal the decision of the Hearing Officer within the ten (10) day period shall be deemed to be a waiver of the applicants or a party in interest's, as the case may be, right to appeal to the courts under rule 106 of the Colorado Rules of Civil Procedure for failure to exhaust administrative remedies.
- G. The cost of preparing the transcript of proceedings before the Hearing Officer on appeal to the City Council shall be borne by the appellant. (Ord. 84-117; Ord. 85-11; Ord. 85-272; Ord. 86-66; Ord. 86-214)

14-18-115: INTERPRETATIONS: In the event that the Hearing Officer, in making a

decision, makes an interpretation of the Zoning Code or the Comprehensive Plan which is different from the interpretation made by the Planning Department, the Director of Planning may appeal that interpretation to the Colorado Springs City Council; provided, however, that said appeal of the interpretation of the Hearing Officer shall not in any way affect the right of the applicant or any other party in interest to appeal the decision of the Hearing Officer to the City Council. In the event that the City Council reverses the interpretation of the Hearing Officer, either by resolution or by ordinance, then the Hearing Officer, in all future matters involving that same provision of Chapter 14 or the Comprehensive Plan, shall be bound by the City Council interpretation until changed by the City Council, either by ordinance or by resolution. (Ord. 84-117; Ord. 85-272)

14-18-116: ENFORCEMENT: Any decision by the Hearing Officer which is not appealed within the ten (10) day period, or any final decision of the City Council on appeal from the Hearing Officer shall be enforceable through abatement proceedings, or a civil action initiated in District Court. The remedies of the City shall be cumulative. (Ord. 84-117; Ord. 85-272; Ord. 86-214)

14-18-117: REFUSAL TO COMPLY WITH DECISION: The refusal of the applicant or any person subject to a notice and order asserting a violation of the Zoning Code to comply with a final decision of the Hearing Officer, or of a final decision of the City Council after appeal of the Hearing Officer decision, shall be unlawful. (Ord. 84-117)

14-18-118: RULES AND REGULATIONS: The Hearing Officer may adopt such rules and regulations of procedure which are necessary for the conduct of the hearings before her. Copies of such rules and regulations shall be made available to the public, upon request, by the Director of Planning; provided, however, copies of the Hearing Officer's rules and regulations should not be relied upon as there may be amendments made from time to time to the rules and regulations which are not reflected in the copies. The official copy of the rules and regulations shall be available for inspection at the Planning Department during regular business hours. No amendment to these rules and regulations shall become effective until incorporated in this official copy. The Hearing Officer shall decide all points of order or procedure and shall

maintain order and to that end may order the removal of disorderly or disruptive persons. (Ord. 84-117; Ord. 85-272)

14-18-119: APPEALS TO THE HEARING OFFICER: Whenever an appeal is made to the Hearing Officer pursuant to Section 14-17-113A1, the appeal shall be conducted in accordance with the requirements of this Article 18. A perfected appeal shall operate as a stay of the administrative decision unless the Hearing Officer certifies in writing that a stay would cause or result in an imminent hazard to the public health, safety, and welfare. Appeals from any decision of the Hearing Officer shall be pursuant to the requirements of Section 14-18-114. (Ord. 86-66)

CHAPTER 14 ZONING

ARTICLE 19 ADMINISTRATIVE RELIEF

SECTION:

14-19-101: Purpose and Intent

14-19-102: Application

14-19-103: Findings Necessary to Grant
Administrative Relief

14-19-104: Appeal

B. The intent of the zoning chapter and the specific regulation in question is preserved.

C. The granting of the administrative relief will not result in an adverse impact on surrounding properties. (Ord. 86-39)

14-19-101: **PURPOSE AND INTENT:** The purpose of this Article is to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal. This Article may only be applied to those sections of the zoning chapter where this Article is specifically referenced. (Ord. 86-39)

14-19-104: **APPEAL:** A decision of the Planning Department's representative may be appealed to the Hearing Officer within ten (10) days after the decision. The appeal shall be filed in accordance with the requirements of applications to the Hearing Officer and shall include a written statement of the grounds of the appeal. (Ord. 86-39)

14-19-102: **APPLICATION:** A written request for administrative relief shall be submitted in conjunction with a development proposal submitted pursuant to the zoning chapter, such as a development plan or a building permit site plan. The written request shall include a justification in terms of the findings necessary to grant administrative relief. The written request shall close with a section for the Planning Department's use to include a block for the decision of approval/denial, the Planning Department representative's signature, and decision date. The written request with decision shall be attached to the plan or retained in the appropriate file, as appropriate. (Ord. 86-39)

14-19-103: **FINDINGS NECESSARY TO GRANT ADMINISTRATIVE RELIEF:** The Planning Department's representative must make all of the following findings in order to grant administrative relief:

A. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district and such conditions will not allow a reasonable use of the property in its current zone in the absence of relief.

CHAPTER 15
ANNEXATION, SUBDIVISIONS AND
LAND DEVELOPMENT

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CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 1 PLANNING COMMISSION

SECTION:

- 15-1-101: Commission Created; Membership
- 15-1-102: Meetings; Organization
- 15-1-103: Function
- 15-1-104: Advice, Consultation and Help

15-1-101: COMMISSION CREATED; MEMBERSHIP: There is hereby created a Planning Commission for the City, to be composed of nine (9) regular members and three (3) liaison members to be appointed by the City Council. Two (2) of said regular members may reside outside of, but within three (3) miles of the corporate limits of the City. In order to ensure a more coordinated planning program the aforesaid three (3) liaison members shall be selected from each of the following governmental bodies:

The Colorado Springs City Council,
The El Paso County Planning Commission,
The Colorado Springs Board of Adjustment.

The aforesaid three (3) liaison members shall not have the right to vote on any matter before the Planning Commission.

Appointments to the Commission shall be made in such manner as to achieve staggered three (3) year terms. Vacancies shall be filled by appointment for the unexpired term only. Members of the Commission shall serve without compensation for their service. (Ord. 2767; 1968 Code § 1-143.1)

15-1-102: MEETINGS; ORGANIZATION: The members of the Planning Commission shall meet at least once a month at such time and place as they may fix by resolution. They shall select one of their number as chairman and one as vice chairman, each of whom shall serve one year and until their successors have been selected. Special meetings may be called at any time by the chairman or in his absence by the vice chairman or by any other member so designated by the chairman. A majority of the Commission shall constitute a

quorum for the transaction of business. The Commission shall cause a proper record to be kept of its proceedings. (Ord. 2767; 1968 Code § 1-146)

15-1-103: FUNCTION: It shall be the function of the Planning Commission to encourage, coordinate and unify planning of the urban metropolitan area centering on the City. For these purposes, it may engage in cooperative and joint planning programs with the planning agencies, officials and representatives of other governmental units and with private agencies and organizations. (Ord. 2767; 1968 Code § 1-148)

15-1-104: ADVICE, CONSULTATION AND HELP: The Commission may call upon any officer or employee of the City for any services, advice or consultation that it may desire and may with approval of the City Council employ such clerical or specialized help as may be necessary to effectuate its purposes; provided, however, that appropriation for the expenses thereof has first been made by the City Council. (Ord. 2767; 1968 Code § 1-149)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 2 ANNEXATIONS

PART 1 GENERAL PROVISIONS

SECTION:

15-2-101: Purpose

15-2-102: Comply with State Laws

15-2-103: Conditions for Annexation

15-2-101: **PURPOSE:**

- A. Section 34.1 of the Charter of the City requires that extension policies for the services provided by the Department of Utilities be established by the City Council.
- B. The extension and provision of municipal services, particularly water or wastewater, or both, to consumers outside the corporate limits of the City and the proper relationship between the availability of water and wastewater facilities and the development of land has been the subject of study of numerous citizen committees, the subject of numerous and confusing resolutions, and a source of confusion for councilmen, utility planners, City planners and citizens.
- C. City Council believes that definite statements need to be made in order to establish a policy pertaining to the provision and extension of water or wastewater, or both, to consumers outside the City limits who own or occupy land not presently eligible for annexation.

POLICY STATEMENTS

1. The citizens of the City are the owners of water provided to themselves and to consumers outside the City limits. The revenues generated by sale of water and processing of wastewater are necessary to pay for the acquisition and development of the water and the construction, operation and maintenance of the water and wastewater facilities.

- C) 2. The City must consider the future water and wastewater needs of areas outside the corporate limits if the Pikes Peak urban area is to continue to grow to accommodate anticipated population. However, in considering the future water and wastewater needs of areas outside the City, consideration must be given to the capacity to serve within the corporate limits of the City.

3. The extension or provision of water or wastewater, or both, is a method of fostering compatible land use and development inside and outside the City limits, and should be handled in a manner which will ensure sound land-use relationships and promote orderly development.

4. Persons inside the City limits who receive water or wastewater services must comply with City ordinances including but not limited to construction, fire protection, subdivision, zoning and health codes, and such persons must pay ad valorem taxes upon their real property. It seems only reasonable, then that persons outside the City limits who desire water or wastewater services should be required to do no less than those who receive such services inside the City, as well as pay additional fees for such services.

5. There is a need to sell water and process wastewater for revenues to meet the costs of owning and operating the City's water and wastewater system, and the need to ensure that land use and development outside of the corporate limits of the City is compatible with land use within the City and will not have an adverse impact on the City and its facilities, public and private.

6. There is no obligation imposed by general law upon the City to permit any of the City's water to be used outside its boundaries. Neither is there an obligation under general law

C,6) to reserve water for undeveloped land presently within the City's boundaries.

7. It is not in the best interests of the City to extend utility services outside of its boundaries to areas not eligible for annexation unless it can be assured that an agreement for annexation can be enforced. (Ord. 81-50)

Article 3 of this Chapter. City Council may specify such other requirements as it deems necessary. In the event the City Council chooses not to annex, utilities shall not be extended unless Council is assured that an agreement for annexation can be enforced, and that the remaining provisions of this Article for annexation subsequent to extension of utilities have been met. (Ord. 81-50; Ord. 83-281)

15-2-102: COMPLY WITH STATE LAWS:

Annexation, consolidation or disconnection of territory to or from the City shall be in accordance with section 30 (Right to Vote or Petition on Annexation) of article II of the Colorado Constitution and the Municipal Annexation Act of 1965 (C.R.S. 1973 § 31-12-101, as amended) as it exists now or may hereafter be amended. (Ord. 81-50)

15-2-103: CONDITIONS FOR ANNEXATION: To assist the City Council in its decision, each proposal for annexation shall be studied to determine whether:

- A. The area proposed to be annexed is a logical extension of the City's boundary;
- B. The development of the area proposed to be annexed will be beneficial to the City;¹
- C. There is a projected available water surplus at the time of request;
- D. The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City;
- E. The annexation can be effectuated at the time the utilities are extended or at some time in the future.

After the foregoing have been studied in such depth as the City Council shall require, the City Council in its discretion may annex or not annex the proposed area. In the event the City Council chooses to annex, it may require a contemporary annexation agreement specifying the installation and the timing of installation of certain public and utility improvements, both on-site and off-site, that are required or not required under

1. Financial considerations, although important, are not the only criteria and shall not be the sole measure of benefit to the City.

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 2 ANNEXATIONS

PART 2 AVAILABILITY OF CITY SERVICES

SECTION:

- 15-2-201: Rights of City
- 15-2-202: Annexation Agreements for City Services
- 15-2-203: Procedure for Handling Requests
- 15-2-204: Water Service Previously Granted Outside City

15-2-201: RIGHT OF CITY:

- A. This Part shall not be construed to create any rights or cause of action in any person or land, whether or not the same is eligible for annexation, to demand or receive water or wastewater or other municipal service. The City has never previously and does not now assert exclusive control over the right to serve areas outside the corporate limits of the City with water and wastewater. Areas and activities outside the corporate limits of the City are free to obtain water and wastewater services from any other sources.
- B. The right of the City Council to restrict and regulate the use of City water within or outside the City limits shall not be abridged by anything contained in this Part. The City Council hereby declares the policy of the City to be that water belonging to the City is in no way allocated to a particular parcel of land until such land is developed and water applied to actual use upon such land. Nothing in this Part shall be construed to confer upon undeveloped land within the City limits, as such City limits exist at the time of adoption of this Part or as such City limits may be hereinafter altered by annexation or disconnection, any right to the preservation of existing water rights or quantities of water for the sole and exclusive use of such land.
- C. In the interest of the citizens of the City, City Council will not extend water or wastewater service into any area which is not presently included within the Utilities Department electric service area. An exception to this policy may be

- C) made if the area requesting service can be annexed to the City at the time of utility extension and included in the electric service area upon such annexation, or, if the territory cannot be annexed at the time of such extension, that it can be assured that an agreement for later annexation can be enforced and the area can be included in the electric service area at the time such agreement for annexation is enforced. (Ord. 81-50)

15-2-202: ANNEXATION AGREEMENTS FOR CITY SERVICES:

- A. As a condition precedent to the supplying of City water or wastewater services, or both, to land outside the limits of the City, under Sections 15-2-203 or 15-2-303, the City shall require an agreement executed by the owners in fee of the real property so supplied, which agreement shall provide, among other conditions as the City Council may impose, that the owners shall petition for and consent to the annexation of the area to be supplied with such City services to the City at such future date as the area supplied or any portion thereof, becomes both eligible for annexation pursuant to section 30 of article II of the Colorado Constitution and the Municipal Annexation Act of 1965, as it now exists or may hereafter be amended or as it may be modified by section 30 of article II of the Colorado Constitution, and is found by the City Council to be proper for annexation to the City under the provisions of Section 15-2-102.
- B. It is recognized that a court determination may be required in order to satisfy the provisions of Section 15-2-303E.
- C. Such agreement shall be reported to the City Council at the next regular Council meeting following its execution. Such agreement shall then be recorded and shall run with the land and be binding on the heirs, assigns and successors in interest of the signers. (Ord. 81-50)

15-2-203: PROCEDURE FOR HANDLING REQUESTS:

- A. An application for water or wastewater service for premises outside the corporate limits of the City may be granted by the City Council upon finding that all conditions set forth in subsection D of Section 15-2-303 have been met by the applicant. In its discretion, the City Council may require that studies addressing the considerations expressed in subsections A, B, C and E of Section 15-2-303 be prepared as a condition precedent to the granting of water or wastewater services or both.
- B. In no event is City Council legally obligated to serve water or wastewater outside City limits.
- C. In the event that the City Council authorizes the extension of water or wastewater or both services outside the City boundaries, such decision shall be considered a matter of legislative discretion and not subject to judicial review. Neither shall such decision constitute a precedent controlling other pending or future applications for extraterritorial service. (Ord. 81-50)

15-2-204: WATER SERVICE PREVIOUSLY GRANTED OUTSIDE CITY: Any request for a change of use of previously granted municipal services shall be considered and administered as a new application for such municipal service and shall be subject to all of the provisions and requirements as set forth in Section 15-2-303 of this Article. (Ord. 81-50)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 2 ANNEXATIONS

PART 3 LAND ELIGIBLE FOR ANNEXATION

SECTION:

- 15-2-301: Service Subsequent to Annexation
 15-2-302: Service Pending Annexation
 15-2-303: Service Without Annexation

15-2-301: SERVICE SUBSEQUENT TO ANNEXATION: Except as otherwise provided in this Article, land which at the time of request for service is eligible for annexation to the City under section 30 of article II of the Colorado Constitution and the Municipal Annexation Act of 1965 as it now exists or may hereafter be amended and which meets the provisions of Section 15-2-103, as determined by City Council, shall be annexed to the City before receiving City water or wastewater service or both except as provided in section 15-2-302 below. (Ord. 81-50)

15-2-302: SERVICE PENDING ANNEXATION:

- A. For good cause shown, the City Council may approve the delivery of water or wastewater service, or both, pending completion of annexation. As used in this subsection, good cause is any reason which in the opinion of City Council:
1. Would cause unnecessary delay to the annexor in commencing work on his proposed development; or
 2. Would impose an unnecessary economic hardship upon the annexor, without any compensating advantage or benefit to the City or its citizens. In any event, the City Council hereby declares that its discretion in determining the existence or nonexistence of good cause is a legislative act and is not subject to judicial review.
- B. A petition for annexation, subject to such conditions as City Council in its discretion may impose, must be first filed before a permit or

- B) permits for such water or wastewater service shall be issued or any work commenced, to extend such water or wastewater service beyond the City limits existing at that time. Once filed such petition cannot be withdrawn except with express permission of the City Council and shall be pursued by the annexor and affected City departments to a speedy conclusion. Authorization for water or wastewater extension beyond the City limits may be withdrawn by the City Council without notice to the annexor at any time prior to any substantial change of position (expenditure of time or money) by the annexor in reliance on such authorization.
- C. All required fees shall be payable in advance of the issuance of permit(s) for the requested service(s) and no fee or portion thereof shall be refunded.
- D. In no event shall this Section be used if annexation subsequent to the extension of utilities cannot be assured under the provisions of section 30 of article II of the Colorado Constitution. (Ord. 81-50)

15-2-303: SERVICE WITHOUT ANNEXATION:

In its legislative discretion the City Council may authorize the delivery of water or wastewater services or both to land otherwise eligible for annexation under the criteria of the Municipal Annexation Act of 1965 but which the Council decides not to annex for failure to meet the provisions of Section 15-2-102. Further, in exercising its discretion the City Council shall consider, among such other values and matters as may be presented to it, the following:

- A. Estimated immediate and long-range costs to the City under development plans proposed by the annexor, which cost estimates shall include but need not be limited to:
1. The cost of extending existing City services;¹

¹ Examples of services are fire suppression, police protection, street maintenance, etc.

- A) 2. The nature and the cost of City-financed capital improvements¹ made necessary² by the proposed annexation when developed;³

3. The time schedule as proposed by the annexor over which such costs would be extended.

- B. Revenues expected to be generated by proposed development within the area proposed to be annexed.⁴

- C. Other benefits to the City for which there is no readily acceptable method of computation except subjective judgment.⁵

- D. In addition, the City Council shall consider whether:

1. There is a projected available water surplus at the time of request.

2. The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City.

3. An annexation agreement in the form required by the City has been executed by the owner of the land to be served. Such annexation agreement shall be attached to the application.

4. The proposed use of the land to be served is compatible with the use of adjacent land areas and to the extent acceptable to and approved by the City Council is in conformance with the plan of the PPACG Urban Area Policy Committee. Such proposed land use shall be submitted to the governmental entity having land use planning jurisdiction thereover for comment at least thirty (30) days before final Council action on the request for services.

- D) 5. Water and wastewater development and other applicable utility fees will be paid, and the owner of the land to be served has agreed to abide by all conditions and terms of the Utility Department's Extension Policies.⁶

6. The development of the land to which the water and wastewater services are to be provided is in conformance with those provisions of this Code, as amended, as are applicable to land development within the corporate limits of the City or adequate assurances are made that development of the land will be in compliance with City codes. Assurances of such conformance may be in the form of cash deposit, corporate surety bond, letter of credit or other assurance which the City Attorney shall approve as to form and the Director of Public Works shall approve as to amount. Compliance with City codes pertaining to land development may require but shall not be limited to:

a. Provision for required school/park sites or fees in lieu thereof to the applicable jurisdictions.⁷

b. Dedication, design and construction of required streets, sidewalks, curbs, gutters and utilities, including telephone, to City standards or to the standards of the entity having responsibility for maintenance thereof, whichever standard is more strict.⁸

c. Dedication of easements including but not limited to utility, including telephone and drainage easements as required by the Subdivision Code.⁹

d. Provision for necessary drainage facilities or the payment of drainage fees and arterial roadway bridge fees.¹⁰

7. Unless it can be assured that an agreement for annexation can be enforced, it would not

1. Examples of such capital improvements are bridges, arterial street, major drainage improvements, parks and park improvements and the maintenance and operation of such improvements.

2. The state of development of land being considered for annexation will have considerable bearing on the question of necessity. For example, if partially or fully developed areas are under consideration there may be no need for additional improvements in the absence of significant hazard to the public health, safety and welfare.

3. While not a directly City-related expense, consideration should also be given to costs incurred by other governmental entities, e.g., school districts, County sheriff's office, etc., resulting from proposed development within the area under consideration. While it is arguable that such costs will occur regardless of annexation, such development is not likely to occur without a ready availability of water and wastewater services.

4. Examples of such revenues are ad valorem taxes from the land, and improvements situated and to be situated therein, sales and use taxes from commercial development therein, increased revenue sharing or other grant funds resulting from increased population, increased income taxes and the like.

5. Examples of such intangible benefits are increased employment opportunity, improved wastewater management, improved drainage control, improved public transportation, diversification of economic base (i.e., industry of a differing type as opposed to more industry of the same or allied type).

6. Water and wastewater extension policies are available at the office of the Director of Utilities.

7. See Article 3, Part 12 of this Chapter.

8. See Public Works Department "Standard Specification" available at the office of the City Engineer.

9. See Article 3 of this Chapter.

10. See Parts 9 and 10 of Article 3 of this Chapter.

- D,7) be, as a general rule, in the best interest of the City as a whole to extend utility services outside of City boundaries to areas not eligible for annexation at the time of such extension. Exceptions to this policy will be strictly limited to requests for extension, concerning which City Council specifically finds that the benefits accruing to the City by virtue of extension of utilities clearly outweigh any detriment to present and future City taxpayers resulting from the inability to enforce an agreement for annexation.
- E. Whether the annexation agreement referred to in subsection D3 can be legally enforced under section 30 of article II of the Colorado Constitution and the Municipal Annexation Act of 1965 as modified by section 30 of article II of the Constitution. (Ord. 81-50)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 1 GENERAL PROVISIONS

SECTION:

- 15-3-101: Title
- 15-3-102: Purpose
- 15-3-103: General Responsibilities
- 15-3-104: Territorial Limits of Regulations
- 15-3-105: Interpretation of Regulations
- 15-3-106: Compliance Required
- 15-3-107: Modifications for Planned Developments
- 15-3-108: Definitions
- 15-3-109: Ancient Plats and Subdivisions

15-3-101: **TITLE:** This Article shall be known and shall be cited as the "Subdivision Code" of the City. (Ord. 4011; 1968 Code § 13-11)

15-3-102: **PURPOSE:** It is the purpose and intent of this Article:

A. Health, Safety and General Welfare. To promote the health, safety, convenience and general welfare of the citizens of the City.

B. Standards.

1. To establish standards of subdivision design which will encourage the development of sound, economical, stable neighborhoods and create a healthy living environment for the City.

2. To provide for lots of adequate size, configuration and appropriate design for the purpose for which they are to be used.

3. To allow for design flexibility and imagination.

4. To assure adequate development of established deep lots.

B) 5. To provide for streets of adequate capacity and with appropriate improvements to handle the anticipated traffic flow.

C. Utilities and Services.

1. To provide an efficient, adequate and economical supply of utilities and services to land development, which will assure the governmental costs are minimized to the greatest extent possible.

2. To ensure at the time of subdivision that provisions of adequate storm drainage, sewage disposal and other utilities, services and improvements needed as a consequence of subdivision of land are provided.

3. To provide for the undergrounding of all public utilities lines up to thirty thousand (30,000) volts except as otherwise provided in Section 15-3-806 of this Article.

D. Circulation.

1. To minimize traffic hazards through means of proper street design, and to provide for safe and convenient vehicular and pedestrian traffic circulation in land development.

2. To provide for adequate vehicular access to abutting properties and the subdivider's remaining holdings.

3. To assure the street ROW's are in harmony with the City's Major Traffic Thoroughfare Plan and the City's Public Works Design Manual.

4. To provide for pedestrian circulation for the safety and convenience of the pedestrian desiring access to community facilities for travel throughout the community.

E. Public Facilities.

- E) 1. To provide for the coordination of subdivision development with the provision of public facilities such as parks, recreation areas, schools and other types of community facilities.
- 2. To ensure that public facilities are provided in accordance with the City's Comprehensive Plan Standards.
- 3. To provide for adequate law enforcement and fire protection facilities.
- F. Comprehensive Plan. To ensure the proper development of the community through the principles of land use, distribution of population, intensity of development, preservation of natural amenities, and other elements of the City's Comprehensive Plan. (Ord. 4011; 1968 Code § 13-12)

15-3-103: GENERAL RESPONSIBILITIES:

- A. Subdivider. The subdivider shall be responsible for the preparation, submission, design and the installation of improvements for all plats of subdivision, in accordance with the regulations set forth in this Article, the Public Works Design Manual, other applicable ordinances and resolutions as amended from time to time. The subdivider or his duly authorized agent shall also be responsible to be either in attendance at the hearings for which the plat is being considered or to submit a letter evidencing concurrence with the provisions of approval as recommended.
- B. Planning Director. The Planning Director shall be responsible for the design analysis and the expeditious processing of subdivision maps and reports, as provided herein.
- C. Director of Public Works. The Director of Public Works shall be responsible for reporting to the Planning Commission and the City Council as to whether the proposed improvements are consistent with the regulations contained herein, in the Public Works Design Manual and other applicable City ordinances and resolutions. He shall also be responsible for the supervision of the installation of such improvements, and shall recommend their final approval.
- D. Planning Committee. The Planning Committee is responsible for reviewing matters pertaining to plat of subdivision prior to the City Planning Commission's hearing at which time said Committee shall make a report and recommendation to the Planning Commission on the design of the subdivision plat as it relates to this Article, the Public Works Design Manual, and to the City's Comprehensive Plan.
- E. City Planning Commission. The Planning Commission of the City shall act as the advisory agency to the City Council. It is charged with making investigations, reports and recommendations on the design of the proposed subdivision and assuring its conformance to this Article, the Public Works Design Manual, the City's Comprehensive Plan, and other applicable City ordinances and resolutions. (Ord. 4011; 1968 Code § 13-13)
- F. Minor Land Subdivision Committee. The Minor Land Subdivision Committee shall advise the City Council on those matters for which they have been assigned responsibilities as set forth elsewhere in this Chapter. (Ord. 77-100)
- G. City Council. The City Council, being the legislative body, has final jurisdiction in the approval of matters pertaining to plats of subdivision, the establishment of standards of design, and acceptance of lands and improvements that may be proposed for subdivision improvements. (Ord. 4011; 1968 Code § 13-13)

15-3-104: TERRITORIAL LIMITS OF REGULATIONS:

- A. Area Inside City Limits. The territorial jurisdiction under this Article shall include all land located within the corporate limits of the City.
- B. Area Outside City Limits. All layouts of proposed subdivisions outside the City but within the territorial limits established under the statutes of the State of Colorado shall be submitted to the Planning Commission for its recommendations relating to subdivision design, traffic circulation and the City's Comprehensive Plan. (Ord. 4011; 1968 Code § 13-14)

15-3-105: INTERPRETATION OF REGULATIONS:

Where any provision of this Article imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other ordinance or the statutes of the State of Colorado, then the provisions of this Article shall govern. (Ord. 4011; 1968 Code § 13-26)

15-3-106: COMPLIANCE REQUIRED: No person shall subdivide any tract of land which is located within the City except in conformity with the provisions of this Article, and jurisdiction under this Article shall also extend to and cover any major street plan adopted under the provisions of this Article to the extent of the territorial limits established under the State statutes. (Ord. 4011; 1968 Code § 13-27)

15-3-107: MODIFICATIONS FOR PLANNED DEVELOPMENTS: The subdivision of land in zones where development plans are required shall be subject to such requirements for approval and recording as have been established in this Article. If the uniqueness of a given proposal requires a modification of the design standards as specified in Part 6 of this Article, the City Council, upon a recommendation from the Planning Commission may authorize such a modification, only if the Commission and the Council find that said standards are not required in the interest of the planned development and that the modification(s) of the standards are consistent with the interests of the City. (Ord. 4011; 1968 Code § 13-24)

15-3-108: DEFINITIONS:¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

ASSURANCE; ACCEPTABLE ASSURANCE: Letters of credit or construction bonds or combination thereof, all of which shall be approved as to form by the City Attorney, or cash.

BLOCK: An area of land within a subdivision, generally bounded by streets (other than alleys), highways, natural barriers or the exterior boundaries of the subdivision.

CITY'S COMPREHENSIVE PLAN: The Comprehensive Plan for Development - City of Colorado Springs, adopted by the City Council and all subsequent amendments thereto.

FINAL PLAT and PRELIMINARY AND FINAL PLAT: A map prepared in accordance with the provisions of this Article which is presented to the City for approval, and which if approved will be recorded by the City with the County Clerk, and a copy thereof will be filed with the City Clerk.

LOT: A unit of land shown as a lot on a recorded final plat, or a lot which is proposed to be established through the subdivision process defined herein:

DOUBLE FRONTAGE LOT: A single lot having the front and the rear thereof adjacent to two (2) streets and does not include a corner lot having its front and one side adjacent to two (2) streets.

FLAG LOT: A lot, the main use or building area of which does not abut a public street, but is connected thereto by a narrow strip of land which is a part of the lot.

MAJOR TRAFFIC THOROUGHFARE PLAN: An element of the City's Comprehensive Plan showing location and width of rights of way of principal trafficways.

OFFICIAL PLAN LINE: A map prepared and adopted by the City which indicates the projected rights of way lines for the City's major traffic thoroughfares and for other significant streets. Said map and all subsequent amendments thereto shall be effective when adopted by the City Council.

PLANNING COMMISSION: The Planning Commission of the City of Colorado Springs.

PLANNING DEPARTMENT: The Planning Department of the City of Colorado Springs.

PLATTING: The process of preparing a map of the land to be subdivided in accordance with the terms of this Chapter, and the subsequent approval and recordation of such plat pursuant to the provisions of this Chapter.

PRELIMINARY PLAT: A map or a drawing showing the design of a proposed subdivision, together with such information, supporting data, and other requirements as are necessary to comply with the provisions of this Article.

PRESERVATION AREA: That portion or area of lot(s) which is set aside in the form of a restriction for the purpose of retaining land or water features in their natural state, scenic or open condition. This restriction

1. For definitions of general application, see Section 1-1-203 of this Code.

may prohibit in whole or in part: (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, gravel, soil, rock or other mineral substance in such manner to affect the surface, (v) activities detrimental to drainage, flood control, erosion control or soil conservation, or (vi) other acts or uses detrimental to such retention of land or water areas.

PUBLIC HEARING: Hearing held after public notice.

PUBLIC NOTICE:

- A. Publication of the notice in a newspaper of general circulation in the City, designated for that purpose by the City Council, not more than thirty (30) days nor less than ten (10) days prior to the date of the hearing or other matter about which the notice is given; and
- B. By posting upon a sign the notice to be given at least ten (10) days prior to the hearing or other matter about which notice is given. Said sign shall be placed at points along the perimeter of the property concerned so as to be visible from any adjacent ways or streets, and so located as to provide opportunity for actual notice to owners of surrounding properties and the public. Parking may be outside the perimeter if in the opinion of the Planning Director the posting offers more visibility for public notice.
- C. If the notice set forth in subsections A and B has been provided, no further notice is required if the Planning Commission or the City Council adjourns the hearing to a date certain within thirteen (13) days after the hearing.
- D. If the Planning Commission or City Council adjourns the hearing to a date occurring more than thirteen (13) days after the hearing, public notice meeting the requirements of subsection A and subsection B of this definition is required.

PUBLIC WORKS DESIGN MANUAL: A comprehensive set of standard details, design criteria and specifications prepared by the Public Works Department establishing the minimum requirements for the design and construction of public works facilities, including, but not limited to, streets and structures related or appurtenant thereto, and drainage structures.

REARRANGEMENT OF PROPERTY BOUNDARIES: A rearrangement of property boundaries that does not increase the number of lots within a block or other subdivision unit or area, and which does not affect any streets, alley, utility or drainage easements within the area and which meets all the minimum requirements of this Article and the City's Zoning Code.

REPLATTING: The platting of land that has been previously platted and recorded or the platting of land which has been previously platted plus the addition of unplatted land when no previously platted public streets, rights of way or other public land are within the property described by the replat. Replatting does not require the vacation of all or part of the recorded plat.

RESUBDIVISION: The process of vacating previously platted land and then subdividing such land after the vacation.

SUBDIVIDER: Any person, group, corporation or other entity acting as a unit or any agent thereof dividing or proposing to divide, develop, or plat land so as to constitute a subdivision as defined herein is a land developer. For purposes of this Article, the subdivider is considered to be the owner of the land or an agent of the owner with full power.

SUBDIVISION: The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development, or the building development or platting of a single unplatted parcel of land, or if a new street is involved, excepting at the instance of the City, any division of a parcel of land; provided that a division of land which may be ordered or approved by a court or effected by testamentary or intestate provisions, or a division of land for agricultural purposes and not involving a new street, or the rearrangement of property boundaries shall not be deemed a subdivision.

SUBDIVISION, MINOR: A subdivision as defined above in which:

1. The proposed plat of subdivision contains four (4) or fewer lots;
2. All lots within the proposed plat of subdivision abut a dedicated and accepted City street;
3. The proposed plat of subdivision meets all the minimum requirements of this Article, the Zoning Code, the Public Works Design Manual, and other applicable City ordinances and resolutions;

4. There are no requests for the waiver of any requirements of this Article, the Zoning Code, the Public Works Design Manual, and other applicable City ordinances and resolutions.

VACATION PLATTING: The process of preparing a map of land previously subdivided in accordance with the terms of this Chapter to terminate the existence of recorded plat descriptions of public or private property as described on the previously recorded plat. Such vacation shall be required on all land proposed for reversion to raw acreage or the vacation of any dedicated City property or both. (Ord. 4011; Ord. 78-65; Ord. 84-256; Ord. 85-237; Ord. 86-67; 1968 Code § 13-15; 1980 Code)

15-3-109: ANCIENT PLATS AND SUBDIVISIONS:

Subdivisions or portions thereof, the plats of which have been recorded for more than twenty one (21) years, which have not been developed and improvements installed, and in which subdivisions the construction of streets, alleys or any part thereof by reason of terrain or other conditions would involve an unusual or unreasonable cost, the said subdivisions or any part thereof shall be subject to the provisions of this Article, upon certification thereof by the Director of Public Works of the City. Such certification and decision of the Director of Public Works may be appealed to the Planning Commission and the City Council as herein provided. (Ord. 4011; 1968 Code § 13-29)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 2 PLATTING PROCEDURES

SECTION:

15-3-201: General Requirements
 15-3-202: Preliminary Platting Procedures
 15-3-203: Final Platting Procedures
 15-3-204: Preliminary and Final Plat Procedures
 15-3-205: Modifications; Planning Director's Authority
 15-3-206: Recording Procedures
 15-3-207: Replatting
 15-3-208: Property Boundary (Lot Line) Adjustments
 15-3-209: Preservation Areas

15-3-201: GENERAL REQUIREMENTS: Subdivisions which do not meet the requirements as stipulated under Part 3 of this Article shall be governed by the following procedures. (Ord. 4667; 1968 Code § 13-16)

15-3-202: PRELIMINARY PLATTING PROCEDURES:

A. Preparation. The subdivider shall cause the preliminary plat of the land proposed for subdivision to be clearly and legibly prepared by a registered land surveyor, or a person professionally qualified by the State of Colorado or a qualified land planner. Said plat shall comply with the provisions of this Article and State law.

B. Submission.

1. Application Form. The subdivider shall submit with the preliminary plat a completed application for approval of subdivision plat and a plat submittal check list form provided by the Planning Department.

2. Submission Fee. The subdivider shall pay a submission fee at the time of submitting the preliminary plat.

3. Required Number of Plats. The subdivider shall submit with the application form and the submission fee the required number of plats.

B) 4. Submission Deadline. The subdivider shall submit the preliminary plat and all the required information on or before the deadline dates posted at the Planning Department's office.

C. Distribution. The Planning Department shall date and file the preliminary plat upon its receipt from the subdivider. Within seven (7) days after the deadline for submission, the Planning Department shall transmit copies of said plat to the appropriate agencies for checking and recommendations for compliance with their requirements. (Ord. 4011; 1968 Code § 13-16)

D. Action on Preliminary Plat.

1. Land Development Technical Committee Action. The Land Development Technical Committee shall compare the plat with the requirements of this Chapter and shall submit a report and recommendation to the City Planning Commission.

Notification. The subdivider may obtain a copy of the Land Development Technical Committee report and recommendation at the Planning Department's office prior to the scheduled City Planning Commission meeting.

2. Planning Commission Action. The Planning Commission shall review the preliminary plat and the Land Development Technical Committee's report and recommendation at the public hearing.

a. Recommendation of Approval. The Planning Commission recommends approval of the preliminary plat, and said plat shall be referred to the City Council for consideration at its next regularly scheduled meeting provided all provisions as specifically outlined by the Planning Commission have been complied with by the subdivider. Any person or persons may appeal the recommendation of the Planning Commission to the City Council under the procedures as outlined in this Section.

D,2) b. Recommendation of Disapproval. If the Planning Commission elects to disapprove the preliminary plat, said plat shall not be referred to the City Council for consideration, unless the subdivider has filed a written appeal of the Planning Commission action to the City Council within ten (10) days of the Planning Commission action. Whenever a preliminary plat has been denied by the Planning Commission and has not been appealed to the City Council within the ten (10) day time limitation, then the Planning Commission shall not reconsider said plat for a period of six (6) months from the Planning Commission's final action of disapproval; provided, however, that if the plat is modified so as to overcome the objection stated, then the Planning Commission may consider the modified plat within the six (6) month time limitation.

c. Notification. The subdivider shall be notified of the action taken by the Planning Commission by letter within seven (7) days of such action. (Ord. 76-140; 1968 Code § 13-16)

3. City Council Action.

a. Approval. If the Planning Commission recommends approval of the preliminary plat and no appeals have been received, then the City Council shall review the preliminary plat and the Planning Commission report and recommendation. City Council may approve said plat or approve said plat subject to special provisions. If the City Council approves the preliminary plat or approves said plat subject to provisions then the subdivider may proceed with the preparation of a final plat on the approved preliminary plat, or a part thereof.

b. Disapproval, Tabling or Referral. If the City Council finds in reviewing the preliminary plat that said plat is not in conformance with the Public Works Design Manual as amended, this Article or the City's Comprehensive Plan, the City Council may set a public hearing, disapprove, table for further study or refer said plat back to the Planning Commission for further study. Whenever a preliminary plat has been denied by the City Council, the Council shall not consider said plat for a period of six (6) months from the final action of disapproval; provided, however, that if the plat is modified

D,3) so as to overcome the stated objections, then the City Council may consider the modified plat within the six (6) month time limitation.

c. Appeal of Planning Commission Recommendation. If the City Council receives an appeal on a Planning Commission recommendation and/or an appeal on one of the provisions for approval within the ten (10) day time limitation, then the City Council may receive the appeal request and set their next scheduled meeting as a public hearing to review the decision of the Commission, or they may refer the matter back to the Planning Commission for further study, or, if the Council does not feel that the Commission erred, they may disapprove the request for the review.

d. Notification. The City Manager shall notify the subdivider by letter of the action taken by the City Council within seven (7) days of such action.

E. Time Limit to File Final Plat After Preliminary Plat is Approved.

1. Time Limit. The subdivider shall submit for approval by the City Council or the City Planning Department a final plat on all, or a portion of, the approved preliminary plat within twenty four (24) months from the date of Council approval of said preliminary plat. (Ord. 77-100)

2. Extension of Time Limit. Upon written application of the subdivider, the Planning Director may grant one extension of time to the preliminary plats approved period said extension may not exceed twelve (12) months, provided the character of the area has not changed and the preliminary plat is still in conformance with the City's Comprehensive Plan for the area. If the Planning Director disapproves the request for the extension of time to the preliminary plats approved period, the subdivider may file a written appeal of the Planning Director's action to the Planning Commission within ten (10) days of notification of the Planning Director's denial. The procedures outlined in Section 15-3-202 shall then be followed.

3. Failure to Request an Extension. Failure of the subdivider to submit a written request for

E,3) an extension of a preliminary plat prior to the twenty four (24) month time limit, shall cause said plat to become null and void. Thereupon the plat shall be removed from the City's Land Use and Comprehensive Plan and any other neighborhood studies adopted by the Planning Commission and/or City Council. (Ord. 4011; Ord. 82-218; 1968 Code § 13-16A)

15-3-203: FINAL PLATTING PROCEDURES:

- A. Preparation. The subdivider shall cause the final plat of the land proposed for subdivision to be clearly and legibly prepared by a registered land surveyor or a person professionally qualified by the State of Colorado. Said plat shall be in compliance with the provisions of this Article, the preparation requirements of the Department of Public Works and State law.
- B. Submission.
 - 1. Application Form. The subdivider shall submit with the final plat a completed application for approval of subdivision plat and a plat submittal check list form provided by the Planning Department.
 - 2. Submission Fee. No submission fee shall be required.
 - 3. Required Number of Plats. The subdivider shall submit the required number of plats with the application form.
 - 4. Submission Deadline. There shall be no submission deadline dates for a final plat of subdivision. See subsections C and D of this Section for processing the final plat.
- C. Distribution. The Planning Department shall date and file the final plat upon its receipt from the subdivider. Within seven (7) days after the submission of the final plat, the Planning Department shall transmit copies of said plat to the appropriate agencies for checking and recommendations for compliance with their requirements. (Ord. 4011; 1968 Code § 13-16B)
- D. Action on Final Plat.
 - 1. Planning Director's Action. The Planning Director shall check the final plat for conformance with the approved preliminary

D,1) plat. He may approve modifications to the approved preliminary plat when all of the following conditions exist: the rearrangement of lot lines does not substantially alter the general lot and street layout of the approved preliminary plat, and remains compatible with surrounding development; the requested modification is in conformance with the City's Zoning Code, Subdivision Code and other applicable ordinances and the City's Comprehensive Plan; and the requested modification does not conflict with established policies of the Public Works Department, Department of Utilities and Regional Building Department. (Ord. 4230; 1968 Code § 13-16B)

a. Certification (Approval). If the Planning Director finds that the final plat conforms with the approved preliminary plat and that the subdivider has fulfilled all of the requirements of this Article, then the Planning Director shall certify said plat.

b. Disapproval. If the Planning Director determines that the final plat is not in compliance with the approved preliminary plat and/or this Article, then the Planning Director shall notify the subdivider who may make all the necessary changes, additions or corrections. If the subdivider does not desire to make the necessary changes, additions or corrections, then the subdivider may appeal the decision of the Planning Director to the Planning Commission within ten (10) days of notification of the Planning Director's decision. The procedures as outlined in Section 15-3-204 (Preliminary and Final Platting Procedures) shall then be followed.

c. Notification. The subdivider shall be notified of the action taken by the Planning Director by letter within fourteen (14) days of the submittal of said final plat.

2. Director of Public Works Action. The Director of Public Works shall check the final plat to ensure compliance with this Article, the Public Works Design Manual and other applicable City ordinances.

a. Certification (Approval). If the Director of Public Works finds that the final plat and the required accompanying material is in compliance with the Public Works Design

D,2) Manual as amended, this Article and other applicable City ordinances, then the Director of Public Works shall certify said plat.

b. Disapproval. If the Director of Public Works determines that the affidavits, offers of dedications, survey data and any other requirements necessary to ensure compliance with this Article and with the then current requirements of the Public Works Design Manual, are inadequate, then the Director of Public Works shall notify the subdivider who may make all the necessary changes, additions or corrections. If the subdivider does not desire to make the necessary changes, additions or corrections, then the subdivider may appeal the decision of the Director of Public Works to the Planning Commission within ten (10) days of notification of the Director of Public Works' decision. The procedures as outlined in Section 15-3-204 shall then be followed.

c. Notification. The subdivider shall be notified of the action taken by the Director of Public Works by letter within fourteen (14) days of the submittal of said final plat.

3. City Planning Commission Action. The City Planning Commission shall review only those final plats which have been appealed from a decision made by the Planning Director and/or the Director of Public Works. The procedures as outlined in Section 15-3-204 shall then be followed. (Ord. 4011; 1968 Code § 13-16B)

4. City Council Action. The City Council shall review only those final plats which have been appealed from a decision made by the Planning Director and/or the Director of Public Works. The procedures as outlined in Section 15-3-204 shall then be followed. (Ord. 4230; 1968 Code § 13-16B)

15-3-204: PRELIMINARY AND FINAL PLAT PROCEDURES:

A. Preparation. The subdivider shall cause the preliminary and final plat of the land proposed for subdivision to be clearly and legibly prepared by a registered land surveyor or a person professionally qualified by the State of Colorado. Said plat shall comply with the provisions of this Article and State law.

B. Submission.

1. Application Form. The subdivider shall submit with the preliminary and final plat a completed application for approval of subdivision plat and a plat submittal check list form provided by the Planning Department.

2. Submission. The subdivider shall pay a submission fee at the time of submitting the preliminary and final plat.

3. Required Number of Plats. The subdivider shall submit with the application form and the submission fee, the required number of plats.

4. Submission Deadline. The subdivider shall submit the preliminary and final plat and all the required information on or before the deadline dates posted at the Planning Department's office. (Ord. 4011; 1968 Code § 13-16C)

C. Distribution. The Planning Department shall date and file the preliminary and final plat upon its receipt from the subdivider. Within seven (7) days after the deadline for submitting said plat, the Planning Department shall transmit copies of said plat to the appropriate agencies for checking and recommendations for compliance with their requirements. (Ord. 4011; 1968 Code § 13-16C)

D. Action on Preliminary and Final Plat.

1. Planning Commission Action. The Planning Commission shall review the preliminary and final plat at a public hearing. (Ord. 4667; 1968 Code § 13-16C)

a. Recommendation of Approval. If the Planning Commission recommends approval of the preliminary and final plat, said plat shall be referred to the City Council for consideration at its next regularly scheduled meeting, provided all provisions as specifically outlined by the Planning Commission have been complied with by the subdivider. Any person or persons may appeal the recommendation of the Planning Commission to the City Council under the procedures as outlined in this Section. The subdivider shall fulfill all the provisions of approval as stipulated by the Planning Commission within ninety (90) days from the

D,1) date of the Commission's approval. The filing of an appeal shall stay the running of this time limitation. Failure of the subdivider to comply with all the provisions of approval within the time limitation shall void the approval, and the plat shall be resubmitted if approval is desired. The procedure as outlined in this Section shall then be followed.

b. Recommendation of Disapproval. If the Planning Commission elects to disapprove the preliminary and final plat, said plat shall not be referred to the City Council for consideration, unless the subdivider has filed a written appeal of the Planning Commission action. Whenever a preliminary and final plat has been denied by the Planning Commission and has not been appealed to the City Council within the ten (10) day time limitation, then the Planning Commission shall not reconsider said plat for a period of six (6) months from the Planning Commission's final action of disapproval; provided, however, that if the plat is modified so as to overcome the stated objections, then the Planning Commission may consider the modified plat within the six (6) month time limitation period.

c. Notification. The subdivider shall be notified of the action taken by the Planning Commission by letter within seven (7) days of such action.

2. City Council Action.

a. Approval. If the Planning Commission recommends approval of the preliminary and final plat and no appeals have been received, then the City Council shall review the preliminary and final plat and the Planning Commission report and recommendation at a public hearing and may approve it with or without special provisions. The subdivider shall fulfill all special provisions stipulated by City Council within ninety (90) days from the date of the Council's approval of said plat. Failure of the subdivider to fulfill the special provisions within the time limitation shall cause the plat to be once again placed on the Planning Commission agenda for consideration. If the City Council approves the preliminary and final plat, and all provisions have been fulfilled by the subdivider, then the City shall record said plat at the County Recorder's office after the

D,2) necessary affidavits have been signed on the preliminary and final plat linen.

b. Disapproval, Tabling or Referral. If the City Council finds in reviewing the preliminary and final plat that said plat is not in conformance with the Public Works Design Manual as amended, this Article or the City's Comprehensive Plan, the City Council may disapprove, table for further study, or refer said plat back to the Planning Commission for further study. Whenever a preliminary and final plat has been denied by the City Council, the Council shall not consider said plat for a period of six (6) months from the final action of disapproval; provided, however, that if the plat is modified so as to overcome the stated objections, then the City Council may consider the modified plat within the six (6) month time limitation.

c. Appeal of Planning Commission Recommendation. If the City Council receives an appeal from a Planning Commission recommendation and/or an appeal on one of the provisions for approval within the ten (10) day time limitation, then the City Council may receive the appeal request and set their next scheduled meeting as a public hearing to review the decision of the Commission or they may refer the matter back to the Planning Commission for further study, or, if the Council does not feel that the Commission erred, they may disapprove the request for the review.

d. Notification. The City Manager shall notify the subdivider by letter of the action taken by the City Council within seven (7) days of such action. (Ord. 4011; 1968 Code § 13-16)

15-3-205: MODIFICATIONS; PLANNING DIRECTOR'S AUTHORITY:

The Planning Director may approve modifications to an approved preliminary and final plat or an approved final plat when all of the following conditions exist:

- A. The rearrangement of lot lines does not substantially alter the general lot and street layout of the approved preliminary plat and remains compatible with surrounding development;
- B. The requested modification is in conformance with the City's Zoning Code, Subdivision Code and the City's Comprehensive Plan; and

- C. The requested modification does not conflict with established policies of the Public Works Department, Department of Utilities and Regional Building Department. (Ord. 4230; 1968 Code § 13-16D)

15-3-206: RECORDING PROCEDURES: A preliminary and final plat approved by City Council or a final plat certified by the Planning Director and the Director of Public Works shall be recorded by the City with the El Paso County Clerk and Recorder within ninety (90) days after approval provided all provisions of approval have been complied with. If the subdivider has fulfilled all of the provisions of approval and all required signatures have been signed on the subdivision plat linen, then the City shall record said plat linen within three (3) working days. (Ord. 77-100; 1968 Code § 13-16E)

15-3-207: REPLATTING: A replat may be filed whenever it is desired to make changes to an existing plat and no existing public street, right of way or other public property is affected. The replat shall refer to the plat describing the land which has been previously platted and recorded, but not vacated, and which is to be replatted in accordance with this subsection. Approval of the replat by City Council vacates the previous platting of the area replatted.

Request for approval of a replat shall be submitted to the Minor Land Subdivision Committee. The replat shall conform to the submittal requirements for preliminary/final plat submittals, Section 15-3-504, and shall further include:

- A. The title block of the replat shall identify the subdivision of record or that portion of the subdivision of record which is being replatted. The replat may be identified by its own separate title if desired. Example: ABC subdivision, a replat of Lots 4, 5 and 6 of Block 3 of XYZ subdivision.
- B. The replat shall contain the following notice: (Recordation) *"The approval of this replat vacates all prior plats for the area described by this replat"*.
- C. Preliminary copies of the replat shall show the original recorded lot lines as dashed lines; however, if preliminary copies are not required

- C) by the Planning Director and Director of Public Works under the same conditions as set forth in Section 15-3-504 at least one copy of the final replat shall show the original recorded lot lines as dashed lines. (Ord. 78-65; 1968 Code § 13-16F)

15-3-208: PROPERTY BOUNDARY (LOT LINE) ADJUSTMENTS:

- A. Changes may be made to platted lots without the necessity of replatting or vacation and platting, when the following conditions exist:

1. When an engineering error was made on the original plat; or,
2. When no additional lot is being created; and;

a. The proposed lotting pattern meets all requirements of this Code including adequate setbacks and area requirements for any existing development; and,

b. The proposal has been properly submitted to the Planning Department and reviewed by all City departments, with no departments having objections to the adjustments; and,

c. The lot, or lots, involved have not received prior property boundary adjustments or approval of combining of lots for zoning purposes (Section 15-3-209); that is, the fifteen percent (15%) limitation below cannot be circumvented by submitting a series of requests. This limitation shall not strictly apply to lots located within an area of common or central ownership (townhouses, etc.). In areas where the adjustment is between a lot and a surrounding lot, the surrounding lot may receive as many adjustments as are necessary so as to allow each contained lot to be adjusted one time; and,

d. No more than fifteen percent (15%) of the area of any one platted lot is involved in the adjustment. Basic lot configurations cannot be changed.¹

- B. Submission. The following shall be submitted:
 1. A completed application form, available at the Planning Department.

1. Ed. Note: Under these provisions two (2) north-south lots cannot be changed to two (2) east-west lots under this procedure. This allows one side property line to be moved ten feet (10') or an area of eleven hundred (1,100) square feet to be effected on a typical residential lot (70' x 110'). It does not allow a lot to be totally shifted ten feet (10') in one direction or another. This kind of shift would have to involve a minimum of three (3) lots and will not be considered a boundary adjustment that can be administratively approved.

B) 2. Recording fee.

3. Proof of ownership of the lots involved and written concurrence of the owners to the proposed changes.

4. The required number of certified property surveys.

C. Distribution. The Planning Department shall date and file the application and shall then transmit copies of the survey to the appropriate agencies for checking and recommendations for compliance with their requirements.

D. Action on Property Boundary Adjustments. After receiving all departmental comments the Planning Director shall either approve or disapprove the request. Requests which have been approved will then be recorded at the El Paso County Clerk and Recorder's office. (Ord. 82-218; 1980 Code)

A1d)

3. All preservation area boundaries, old and revised;

4. Adjacent right of way;

5. All existing structures which will remain;

6. Approval statement.

2. Distribution: The Planning Department shall date and file the application and shall then transmit copies of the survey to the appropriate agencies for review and recommendations and for compliance with their requirements.

3. Action: Requests which have been approved shall be recorded by the City at the El Paso County Clerk and Recorder's Office. (Ord. 86-67)

15-3-209: **PRESERVATION AREAS:** All designated "preservation areas" shall be platted and recorded in accordance to Parts 2 or 3, Platting Procedures, of this Chapter. A certified property survey prepared in accordance to this Section shall be submitted to recorded amendments to "preservation areas" involving previously platted property.

A. Procedure for Amending Platted Preservation Areas:

1. Submittal Requirements: The applicant shall submit to the Planning Division a completed application form accompanied by:

a. Application fee;

b. Recording fee;

c. Proof of ownership of the property; and

d. The required number of copies of a certified survey of the lot(s) involved to include:

1. The subdivision name, lot(s) and block numbers, and the book and page of the recorded plat;

2. All existing lot lines and easements;

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 3 PLATTING PROCEDURES; MINOR SUBDIVISIONS

SECTION:

- 15-3-301: Minor Land Subdivision Committee
- 15-3-302: Minor Subdivisions Defined
- 15-3-303: Preliminary and Final Platting Procedures
- 15-3-304: Modifications; Planning Director's Authority
- 15-3-305: Recording Procedures

- C) standards and shall require the timely payment of all outstanding subdivision fees required by this Article and other applicable City ordinances.

All minor subdivision plats and vacation plats recommended for approval by this Committee shall be forwarded to the City Council with its written recommendation. (Ord. 78-65; 1968 Code § 13-17A)

15-3-301: MINOR LAND SUBDIVISION COMMITTEE:

- A. Establishment. There is hereby created a Minor Land Subdivision Committee for the City, to be composed of the Planning Director, the Director of Public Works, the Director of Utilities and two (2) members of the Planning Commission selected by the chairman on a rotating basis. Each of the foregoing department heads may designate a subordinate to represent him at Committee meetings. (Ord. 4667; Ord. 77-100)
- B. Meetings. The members of this Committee shall meet on the first and third Mondays of each month, or if a Monday is a City holiday, the working day following the holiday, at such time and place as indicated on the schedule to be published and available to the public at the Planning Department office. (Ord. 77-110; Ord. 78-203)
- C. Powers and Duties. This Committee shall review minor subdivision plats as defined in Section 15-3-302 below, and all replats, vacation plats and street and alley vacations.

As a condition of approval of a minor subdivision the Committee shall require the dedication and improvement of additional right of way to bring an existing dedicated street adjacent to or within the subdivision up to City

15-3-302: MINOR SUBDIVISIONS DEFINED: A subdivision plat which may be considered by the Minor Land Subdivision Committee is a preliminary/final plat, which meets all of the requirements of this Code and which:

- A. Contains four (4) or fewer lots; or
- B. Is a replat (no limit on number of lots); or
- C. Agrees with a "planned" zone development plan which has been approved by the City; or
- D. Agrees with a master plan approved by the City Council which is sufficiently detailed so as to locate general land use categories and major streets; and
- E. Meets all of the following criteria:
 - 1. All lots within the proposed plat of the subdivision abut a dedicated and accepted City major or minor street or have access to such a street by means of recorded right of way at least twenty five feet (25') wide;
 - 2. The proposed plat of subdivision meets all the minimum requirements of this Chapter, the Zoning Code, the Public Works Design Manual, and other applicable City ordinances and resolutions;
 - 3. There are no requests for waiver of any requirements of this Chapter, as set forth in

E,3) Part 13 hereof, the Zoning Code, the Public Works Design Manual or other applicable City ordinances and resolutions.¹

F. Any submittal that does not meet the criteria set forth above shall be referred to the Planning Commission. If there is doubt on any matter the request shall be referred to the Planning Commission. (Ord. 78-65; Ord. 82-29; Ord. 82-218; 1968 Code § 13-17B)

15-3-303: PRELIMINARY AND FINAL PLATTING PROCEDURES:

A. Preparation. The subdivider shall process a minor subdivision as a preliminary and final plat. Said plat shall be clearly and legibly prepared by a registered land surveyor or a person professionally qualified by the State of Colorado. Said plat shall comply with the provisions of this Article and State law.

B. Submission.

1. Application Form. The subdivider shall submit with the preliminary and final plat a completed application for approval of subdivision plat and a plat submittal check list form provided by the Planning Department.

2. Submission Fee. The subdivider shall pay a submission fee at the time of submitting the preliminary and final plat.

3. Required Number of Plats. The subdivider shall submit the required number of plats with the application form and the submission fee.

4. Submission Deadline. The subdivider shall submit the preliminary and final plat and all the required information on or before the deadline dates posted at the Planning Department's office.

C. Distribution. The Planning Department shall date and file the minor subdivision preliminary and final plat upon its receipt from the subdivider. Within seven (7) days after the deadline for submission, the Planning Department shall transmit copies of said plat to the appropriate agencies for checking and recommendation for compliance with their requirements.

D. Action on Preliminary and Final Plat.

1. Minor Land Subdivision Committee Action. In reviewing minor subdivisions at a public hearing, the Committee shall take into account the provisions of this Article and shall approve the plat, approve the plat subject to any provisions deemed necessary by the Committee, table the plat for further study, refer the plat to the Planning Commission for its consideration, or disapprove the plat. Any person or persons may appeal the recommendation of the Subdivision Committee to the Planning Commission under the procedures as outlined in this Section. (Ord. 4011; 1968 Code § 13-17C)

a. Recommendation of Approval. If the Minor Land Subdivision Committee approves the preliminary/final plat or vacation plat said plat shall be forwarded to the City Council provided all provisions of approval have been complied with by the subdivider. The subdivider shall fulfill all of the provisions of approval as stipulated by the Minor Land Subdivision Committee within ninety (90) days of the date of the Committee's approval. The filing of an appeal shall stay the running of this time limitation. Failure of the subdivider to comply with all provisions of approval within the time limitation shall void the approval, and the plat shall be resubmitted if approval is desired. The procedure as outlined in this Section shall be followed. Appeals to the Minor Land Subdivision Committee approval shall be made to the City Council in writing specifying the reasons for the appeal within ten (10) days of the Minor Land Subdivision Committee meeting. (Ord. 78-65; 1968 Code § 13-17C)

b. Recommendation of Disapproval. If the Minor Land Subdivision Committee disapproves the preliminary and final plat, said plat shall not be referred to the Planning Commission or the City Council for consideration, unless an appeal of the Committee's decision is made. Disapproved minor subdivision preliminary and final plats shall be considered by the City Planning Commission only when the subdivider has filed a written appeal of the Minor Land Subdivision Committee's action to the Planning Commission within ten (10) days from date of

1. Following examples are to be used as general guides in determining whether or not the Minor Land Subdivision Committee may consider the request. If there is doubt, the matter shall be referred to the Planning Commission.

a. A slight adjustment in location or shape of land uses due to final engineering data is acceptable. However, changes in location or configuration of land uses will be referred to the Planning Commission.

b. Changes in the internal minor street pattern are usually acceptable. However, changes to streets that extend beyond the limits of the plat, or a change in the classification of the street, will mean the plat shall be referred to the Planning Commission.

c. If a master plan gives the impression of a park or school site in a particular location, a plat changing that location shall be referred to the Planning Commission.

d. Changes in the design concept of the master plan - either in graphic or written form - must go to the Planning Commission. (Ord. 78-65)

D,1) mailing the Minor Land Subdivision Committee's action. Whenever a preliminary and final plat has been denied by the Minor Land Subdivision Committee, the Committee shall not reconsider said plat for a period of six (6) months from the final action of disapproval, provided, however, that if in the opinion of the Planning Director, the plat has been modified so as to overcome the stated objections, then the Committee may reconsider said plat within the six (6) month time limitation.

c. Notification. The subdivider shall be notified of the action taken by the Minor Land Subdivision Committee by letter within seven (7) days of such action. Ord. 4011; (1968 Code § 13-17)

2. Planning Commission Action. The Planning Commission shall review only those minor subdivision preliminary and final plats which do not meet the requirements of Section 15-3-302 of this Part 3, those minor subdivision preliminary and final plats which the Committee has referred to the Planning Commission for review, and those minor subdivision preliminary and final plats which have been appealed from a decision made by the Minor Land Subdivision Committee. The platting procedures as outlined in Section 15-3-204 shall then be followed. (Ord. 77-100; 1968 Code § 13-17C)

3. City Council Action.

a. Approval. If the Minor Land Subdivision Committee recommends approval of the preliminary/final plat or vacation plat, and no appeal has been received, then the City Council shall consider said plat, provided all provisions of approval have been complied with.

If the City Council imposes additional provisions in granting its approval, then the subdivider shall fulfill such provisions within ninety (90) days of the date of the Council's approval. On failure of the subdivider to fulfill the additional provisions within the time

D,3) limitations, the plats shall be placed once again on the Minor Land Subdivision Committee agenda unless greater time has originally been given by Council.

If the City Council approves the preliminary/final plat or vacation plat and all provisions have been fulfilled by the subdivider, then the City shall record said plat at the County Recorder's office after the necessary affidavits have been signed on the preliminary/final plat linen or vacation plat linen. (Ord. 78-65; 1968 Code § 13-17C)

b. Disapproval, Tabling or Referral. If the City Council finds in reviewing the preliminary and final plat that said plat is not in conformance with the Public Works Design Manual as amended, this Article or the City's Comprehensive Plan, the City Council may disapprove, table for further study or refer said plat back to the Planning Commission or Subdivision Committee for further study. Whenever a preliminary and final plat has been denied by the City Council, the Council shall not consider said plat for a period of six (6) months from the final action of disapproval; provided, however, that if in the opinion of the Planning Director the plat is modified so as to overcome the stated objections, then the City Council may consider said plat within the six (6) month time limitation.

c. Notification. The City Manager shall notify the subdivider by letter of the action taken by the City Council within seven (7) days of such action. (Ord. 4011; 1968 Code § 13-17)

15-3-304: MODIFICATIONS; PLANNING DIRECTOR'S AUTHORITY:

The Planning Director may approve modifications to the approved preliminary and final plat when all of the following exist:

A. The rearrangement of lot lines does not increase the number of lots within the subdivision;

- B. The rearrangement of lot lines does not move an approved lot line by more than ten feet (10');
- C. The requested modification is in conformance with the City's Zoning Code, Subdivision Code and the Comprehensive Plan; and
- D. None of the appropriate agencies object to the requested modification. (Ord. 4011; 1968 Code § 13-17)

15-3-305: **RECORDING PROCEDURES:** The procedures as outlined in Section 15-3-206 shall be followed for recording minor subdivisions. (Ord. 4011; 1968 Code § 13-17E)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 4 PLATTING PROCEDURES; VACATION PLATS

SECTION:

15-3-401: Vacation Platting Procedures

15-3-401: VACATION PLATTING PROCEDURES:

- A. When Required. The subdivider shall file a vacation plat on all land proposed for resubdivision, reversion to acreage or vacation of a dedicated City street or alley unless determined by the Planning Director that such action is not required. If a vacation plat is not required, then the subdivider shall indicate at the time of submitting the vacation request to the Planning Department, for consideration by the Minor Land Subdivision Committee and the City Council, whether or not the existing easements are to be retained, and if so, whether they are drainage or utility easements.

Should a vacation plat not be required, the subdivider shall submit his request as set forth in subsection C set forth below, with the exception that in place of a vacation plat, drawings as specified by the Planning Director, adequate for City review of the request, shall be submitted instead. (Ord. 77-100; 1968 Code § 13-18)
- B. Preparation. The subdivider shall cause a vacation plat to be prepared as a preliminary and final plat. Said plat shall be clearly and legibly prepared by a registered land surveyor or a person professionally qualified by the State of Colorado. Said plat shall comply with the provisions of this Article and State law. (Ord. 4011; 1968 Code § 13-18)
- C. Submission. The subdivider shall make application to the Minor Land Subdivision Committee as follows: (Ord. 77-100; 1968 Code § 13-18)
 1. Application Form. The subdivider shall submit with the vacation plat a completed
 - C,1) vacation plat application form and vacation plat check list provided by the Planning Department.
 2. Submission Fee. The subdivider shall pay a submission fee at the time of submitting the vacation request.
 3. Required Number of Plats. The subdivider shall submit the required number of plats with the application form and the submission fee.
 4. Submittal Deadline. The subdivider shall submit the vacation plat and all the required information on or before the deadline dates posted at the Planning Department's office.
- D. Distribution. The Planning Department shall date and file the vacation plat upon its receipt from the subdivider. Within seven (7) days after the submittal deadline for filing said plat, the Planning Department shall transmit copies of said plat to appropriate agencies for checking and recommendations for compliance with their requirements. (Ord. 4011; 1968 Code § 13-18)
- E. Action on Vacation Plat. The procedures for minor subdivision plats as outlined in Section 15-3-303D of this Article shall be followed for the processing and recording of all vacation plats. (Ord. 4667; 1968 Code § 13-18)
- F. An action by the City Council in vacating a dedicated City street or alley shall become final on adoption of the vacation ordinance and may not be reconsidered or rescinded. (Ord. 83-44)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 5 PLATTING REQUIREMENTS

SECTION:

15-3-501: Applicability

15-3-502: Preliminary Plat; Major and
Minor Subdivisions

15-3-503: Final Plat; Major and Minor Subdivisions

15-3-504: Preliminary and Final Plats; Major and
Minor Subdivisions

15-3-505: Vacation Plats

15-3-501: **APPLICABILITY:** The platting requirements established herein shall govern the requirements for all major subdivisions (5 or more lots), all minor subdivisions (4 or fewer lots), and all vacation plats when applicable. (Ord. 4011; 1968 Code § 13-19)

15-3-502: **PRELIMINARY PLAT; MAJOR AND MINOR SUBDIVISIONS:**

- A. Scale. The preliminary plat shall be drawn to a scale which is adequate to demonstrate the information required below. A bar scale reflecting the scale used shall be placed upon the final plat. (Ord. 77-27; 1968 Code § 13-19A)
- B. Information Required on Preliminary Plat.
 1. Name of subdivision.
 2. An accurate and clear legal description of the subdivision with the acreage of the subdivision. (Ord. 77-100; 1968 Code § 13-19A)
 3. Name and address of the legal property owner and/or subdivider.
 4. Name and address of the designer, surveyor and/or engineer.
 5. Date of preparation, scale and north point.
 6. A vicinity location map necessary to locate the tract.
 7. Existing zoning and/or proposed zoning boundary lines, including zoning of contiguous properties.
- B) 8. Approximate location of land intended to be conveyed or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision.
9. Approximate layout, dimensions and number of lots including the location of existing curb, gutter and sidewalk.
10. The location with approximate gradients where a grading problems may exist, and names of the public or private streets or other public or private ways, easements, railroad and utility row, section and incorporation lines within the tract. Any private street shall include the designation "(private)" immediately following street name; any other private right of way that is not named shall include the designation "(private)" in a manner that clearly conveys such a status.
11. The approximate radii of all street curves.
12. Approximate location of all area subject to inundation or storm water overflow and the location, widths and direction of flow of all water courses.
13. Existing location of bridges, culverts and other provisions for collection and discharge of surface drainage.
14. Accurate existing contours shall be shown at intervals of two feet (2') or less; contours at intervals of five feet (5') will be acceptable for very rough topography. Said contours shall be extended onto adjacent property a sufficient distance to establish proper topographical relationships.
15. Outline to scale of buildings and structures which are not to be moved in the development of the subdivision.
16. Means of providing vehicular access to adjoining properties.
17. Adequate space for approval or disapproval stamp of the Commission.

- B) 18. All other information required by State law. (Ord. 4011; 1968 Code § 13-19A)

19. Approximate area in square feet of each lot sought to be platted. (Ord. 75-68; 1968 Code § 13-19A)

- C. Material Required to Accompany Preliminary Plat.

1. Where the preliminary layout covers only a part of the subdivider's entire holding, a sketch of the prospective street system of the unsubmitted part shall be furnished insofar as it affects the plat submitted for consideration of the overall street system.

2. Proof of ownership of land sought to be platted or power of attorney from the owner of the land sought to be platted. Such proof of ownership may consist of a title insurance policy, tax assessor's statement or sworn statement of the owner, or deed. (Ord. 81-49; Ord. 82-218; Ord. 83-229; Ord. 86-106)

15-3-503: FINAL PLAT; MAJOR AND MINOR SUBDIVISIONS:

- A. Sheet Size. The sheet size shall be twenty four inches by twenty six inches (24" x 26") including one-half inch (½") border. (Ord. 4011; 1968 Code § 13-19)
- B. Scale. The final plat shall be drawn to a scale of one inch equals one hundred feet (1" = 100') unless determined by the Public Works Director that the scale may be varied because of exceptional circumstances that merit either a larger or smaller scale. A bar scale reflecting such scale shall be placed upon the final plat. (Ord. 77-27; Ord. 80-424; 1968 Code § 13-19B; 1980 Code)

- C. Information Required on Final Plat.

1. Name of subdivision.
2. An accurate and clear legal description of the subdivision with the acreage of the subdivision.
3. Date of preparation, scale and north point.
4. Vicinity Map. A vicinity location map necessary to locate the tract.

- C) 5. Public Land and/or Land Reserved in Deeds. Location of land intended to be conveyed or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision.

6. Monuments. All monuments shall be placed and set in accordance with the requirements of the State of Colorado.

7. Surveyor's Certificates. Certification by a registered land surveyor to the effect that the layout represents a survey made by him and that the monuments thereon actually exist as located and that all dimensional and other details are correct. (Ord. 4011; 1968 Code § 13-19B)

8. Dedications if Any. Dedication to the City of land set aside for parks, playgrounds or other public uses and dedication of public streets and alleys to the City. Signature of the mortgagee, if any, consenting to the dedication is required. (Ord. 83-46)

9. Notary Statement. Acknowledgment of the execution of the plat before a notary public.

10. Certificates for execution by each of the following or their duly appointed representative(s).

a. Director of Public Works

b. Planning Director (Ord. 4011; 1968 Code § 13-19B)

c. City Clerk and Mayor. When a final plat is submitted after prior approval of a preliminary plat, the signatures of the Clerk and Mayor are not required and the Planning Director's signature alone is sufficient.

The Planning Director and Director of Public Works' certificates may be combined as one statement with two (2) signature blocks and date indications. (Ord. 77-100; 1968 Code § 13-19B)

11. Statement of ownership and acknowledgment.

12. Certification Restricting Access. A certificate waiving access rights across the right-of-way lines of major highways, parkways, streets or freeways, where required as a provision of approval.

- C) 13. Not a Part of Subdivision. All areas shown on the map which do not constitute a part of the subdivision shall be labeled "Not a part of this subdivision". All lines delineating such areas shall be dashed.

14. Relationship to Known Monument. Relative bearings and distances to the nearest established street lines or official monuments, which shall be accurately tied to the lines of the subdivision by distances and bearings.

15. Layout. The exact layout including:

a. Boundary Lines. The boundary lines with accurate distance and bearings, the exact location and width of all existing or recorded streets intersecting the boundary of the tract. All dimensions to be determined by accurate field survey which must balance and close within limit of one in five thousand (5,000).

b. Dimension, Relative Bearing, Curve Data. The length of all arcs, internal angles, points of curvature, length and bearing of the tangents, all in accordance with the Public Works Design Manual.

c. Easements. All easements as required by the Department of Utilities, Department of Public Works, and other public and quasi-public agencies.¹

d. Lots and Blocks. All lines of lots, blocks and other parcels of land shall have accurate dimensions in feet and hundredths with bearings or angles to street and alley lines. Lots must close to one in five thousand (5,000).

e. Identification System. All lots and blocks in the subdivision shall be numbered, beginning with the numeral "1" and continuing consecutively throughout the tract, with no omissions or duplications. (Ord. 4011; 1968 Code § 13-19B)

f. Streets. The plat shall show the right-of-way lines, widths, locations and street names of all existing and proposed public or private streets.

1. Within the proposed subdivision, and

2. Immediately abutting the proposed subdivision, and

- C15f) 3. Within three hundred feet (300') of the proposed subdivision, including intersecting streets.

Any private street shall include the designation "(private)" immediately following street name; any other private right of way that is not named shall include the designation "(private)" in a manner that clearly conveys such a status. (Ord. 4011; Ord. 86-106; 1968 Code § 13-19B)

g. Inundation Mark. The plat shall clearly show the high water line of any area subject to inundation, said high water line being a one hundred (100) year storm frequency.

h. All other information required by State law. (Ord. 4011; 1968 Code, § 13-19B)

16. The area in square feet of the lot sought to be platted. (Ord. 75-68; 1968 Code § 13-19B)

17. Adjacent Subdivision. Names of adjacent platted areas shall be shown. If unplatted, so indicate. (Ord. 77-100; 1968 Code § 13-19B)

18. A statement that the area included in the plat is subject to this Code, as such applies to the development of the land. See also Section 15-3-1101 for other language that must be included. (Ord. 78-202; 1968 Code § 13-19B)

D. Material Required to Accompany Final Plat.

1. Recordation fees.

2. Certified check or cash in an amount equal to drainage basin fees, arterial roadway bridge fees and park/school fees.

3. Closure Sheets. One copy of the computed closure sheets for the entire subdivision area. Such sheets will not be required, if not more than five (5) lots in the subdivision are irregular (not rectangular) in shape.

4. Proof of ownership of the land sought to be platted or power of attorney from the owner of the land sought to be platted. Such proof of ownership may consist of a title insurance policy, tax assessor's statement or sworn statement of the owner or deed.

5. Certification of the El Paso County Treasurer's Office that all ad valorem taxes applicable to the

1. See also Section 15-3-1101 and Section 15-3-704 for additional requirements on final plats.

- D5) land comprising the proposed subdivision for years prior to the year in which the final plat is submitted, have been paid. (Ord. 76-178; Ord. 82-218; Ord. 85-202; 1968 Code § 13-19B)
- E. Material Required Prior to Consideration by City Council. Three (3) copies of the drainage plan for the entire subdivision area, said plan to include all required drainage facilities and estimates of drainage costs. (Ord. 4027; 1968 Code § 13-19B)

15-3-504: PRELIMINARY AND FINAL PLATS; MAJOR AND MINOR SUBDIVISIONS:

The requirements as outlined in Sections 15-3-502 and 15-3-503 shall be followed when submitting a preliminary/final plat of a subdivision. A final plat may be considered as both a preliminary/final plat when the Planning Director and the Director of Public Works have stated in writing to the subdivider prior to submittal of the application, that the preliminary plat information is not necessary. (Ord. 77-100; 1968 Code § 13-19C)

15-3-505: VACATION PLATS:

- A. Sheet Size. The sheet size shall be twenty four inches by twenty six inches (24" x 26") including one-half inch (½") border.
- B. Scale. The vacation plat shall be drawn to a scale of one inch equals one hundred feet (1" = 100').
- C. Information Required on Final Plats.
1. Name of subdivision must begin with the following words: "A vacation plat of _____".
 2. An accurate and clear legal description of the subdivision with the acreage of the subdivision.
 3. Date of preparation, scale and north point.
 4. Vicinity map. A vicinity location map necessary to locate the tract.
 5. Surveyor's Certificates. Certification by a registered land surveyor to the effect that the plat to be vacated is a recorded plat.
 6. Notary Statement. Acknowledgment of the execution of the plat before a notary public.

- C) 7. Certificate for execution by each of the following or their duly appointed representative(s):

- a. Director of Public Works.
- b. City Clerk and Mayor.
- c. County Recorder.
- d. Director of Utilities.

8. Statement of ownership and acknowledgment.

9. Layout. The exact layout including:

a. Boundary Lines. The boundary lines with accurate distance and bearings, the exact location and width of all existing or recorded streets intersecting the boundary of the tract.

b. Dimension, Relative Bearing, Curve Data. The length of all arcs, internal angles and points of curvature.

c. Easements. All existing drainage and utility easements as recorded, subject to reservation of easements for existing drainage and utility installations.

d. Lots, Blocks and Identification System. All lines of lots, blocks, identification system and other parcels of land as recorded.

e. Streets. The plat shall show the right-of-way lines, widths, locations and street names of all streets as recorded within, and immediately adjacent to the property being vacated.

f. Inundation Mark. As recorded.

10. Miscellaneous. All other data required by State law. (Ord. 4011; 1968 Code § 13-19A)

11. The area in square feet of that which is sought to be vacated. (Ord. 75-68; 1968 Code § 13-19A)

- D. Certification of the El Paso County Treasurer's Office that all ad valorem taxes applicable to the land comprising the proposed subdivision for years prior to the year in which the vacation plat is submitted, have been paid. (Ord. 85-202)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 6 DESIGN STANDARDS

SECTION:

15-3-601: Application
 15-3-602: Conformity With Comprehensive Plan
 15-3-603: Remnants of Land
 15-3-604: Block Standards
 15-3-605: Lot Standards
 15-3-606: Residential Lot Design Adjacent to Major Street
 15-3-607: Easements
 15-3-608: Railroad Rights of Way

15-3-601: **APPLICATION:** The design standards established in this Part 6 shall be applied by the Planning Commission and/or Subdivision Committee in evaluating a proposed plat of subdivision. (Ord. 4011; 1968 Code § 13-20A)

15-3-602: **CONFORMITY WITH COMPREHENSIVE PLAN:** The Planning Director and the Planning Commission and/or Subdivision Committee shall study the plat of subdivision in connection with the standards established within the City's Comprehensive Plan. (Ord. 4011; 1968 Code § 13-20B)

15-3-603: **REMNANTS OF LAND:** Substandard remnants of land shall be prohibited unless designated as tracts and adequate assurance is provided to incorporate the tracts into usable lots in future developments. (Ord. 4011; 1968 Code § 13-20C)

15-3-604: **BLOCK STANDARDS:** Block design shall conform to sound subdivision design principles and the length, width and the shape shall be determined with due regard to:

A. Zoning district requirements as to lot size.

B. Topographic conditions.

C. Need for safe, convenient access and traffic circulation. (Ord. 4011; 1968 Code § 13-20H)

15-3-605: LOT STANDARDS:

A. General. The size, shape and orientation of lots shall be appropriate to the proposed subdivision location and to the type of development contemplated and shall conform to requirements of this Code.

B. City Limits Line. No lot shall be divided by a City limit line. (Ord. 4011; 1968 Code § 13-20I)

C. Access. Each lot in a new or replatted subdivision shall be provided with satisfactory access to a dedicated public street. (Ord. 77-100; 1968 Code § 13-20J)

D. Double Frontage. Double frontage lots, other than corner lots, will not be permitted unless approved by the Planning Commission and by the City Council. (Ord. 4011; 1968 Code § 13-20)

E. Flag Lots. May be allowed where warranted by physical conditions of land form, existing lot pattern or unusual size or shape of parcel(s). The narrow strip of land connecting the main portion of a flag lot to the street shall be not less than twenty feet (20') wide at any point so long as five foot (5') side lot utility easements are provided adjacent to the flag lot lines. If public utility easements are not provided the stem portion of the flag lot shall be not less than twenty five feet (25') in width. The narrow strip of land shall also provide for practical vehicular and utility access. It shall not be used to help satisfy the minimum lot area requirement of the zoning district. (Ord. 78-65; 1968 Code § 13-20I)

- F. Large Lots. If a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged to allow the opening of future streets and logical further subdivision. (Ord. 4011; 1968 Code § 13-20I)

15-3-606: RESIDENTIAL LOT DESIGN ADJACENT TO MAJOR STREET: If a frontage road is not provided for a single-family or duplex lots fronting onto a major street, the subdivider shall cause the design of the subdivision to conform to one of the alternative design treatments stated below:

- A. Lots abutting the major street shall have vehicular access from the existing or proposed alley adjacent to the rear lot line, or
- B. Lots abutting the major street shall have vehicular access from the minor street adjacent to the through lot. (Ord. 4011; Ord. 86-106; 1968 Code § 13-20; 1980 Code)

15-3-607: EASEMENTS:

- A. Maintenance of Easements. The property owner shall be responsible for the maintenance of all easements described below, excluding drainage easements on the City's Master Drainage Plan.
- B. Utility Easements. Utility easements shall be not less than five feet (5') in width on both sides of all side lot lines and seven feet (7') in width on both sides of all rear lot lines unless the Director of Utilities or his designated representative has stated in writing prior to submission of the plat that such are not required. All required utility easements shall be placed on the final plat prior to consideration of said plat by the City Council. (Ord. 77-100; 1968 Code § 13-20K)
- C. Drainage Easements. All required drainage easements shall be placed on the final plat and so marked prior to consideration of said plat by the City Council. Further, all drainage easements that are not on the City's approved drainage plan shall be marked "private drainage easements" on the plat, or a statement shall be placed on the final plat that the City is not responsible for the maintenance of said easements, prior to consideration of said plat by the City Council.

- D. Dual Easement. Where an easement is proposed for both utilities and drainage facilities, the following minimum standard shall apply: Dual easements shall be not less than seven feet (7') in width on both sides of all lot lines. Said easement shall be designated on the final plat as a dual easement prior to consideration of said plat by the City Council. (Ord. 4011; 1968 Code § 13-20K)

15-3-608: RAILROAD RIGHTS OF WAY: Where a subdivision adjoins a railroad right of way, provisions of space for grade separations, buffer strips and other protective treatment shall be made to the extent and type required by the Planning Commission and the City Council. (Ord. 4011; 1968 Code § 13-20L)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 7 STREETS IN SUBDIVISIONS

SECTION:

- 15-3-701: Purpose
- 15-3-702: Policy
- 15-3-703: Definitions
- 15-3-704: Regulations for Streets Shown on Plats Submitted for Approval
- 15-3-705: Right of Way Dedication and Street Improvements
- 15-3-706: Partial Reimbursements

15-3-701: **PURPOSE:** It is the purpose of this Part 7 to set forth policies and procedures of the City pertaining to streets in the land development (subdivision) process. (Ord. 76-78; 1968 Code § 13-21.1A)

15-3-702: POLICY:

- A. It is general policy of the City that streets shall be planned, located, constructed, named and numerically addressed to promote the public health, welfare and safety of the public. Streets in the City shall provide for ease of traffic circulation and the lessening of traffic congestion. Streets shall be designated and constructed for vehicular safety.¹
- B. It is the policy of the City that major streets, as defined below, shall provide for the rapid and relatively unimpeded movement of vehicular traffic throughout the City, and that major streets shall be located so as to provide access to major land use centers in the City.
- C. It is the policy of the City that minor streets, as defined below, shall provide access to all property in the City. (Ord. 76-78; Ord. 86-106; 1968 Code § 13-21.1B)

15-3-703: **DEFINITIONS:**² The following terms as used in this Part 7, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such mean-

ing is excluded by express provision.

MAJOR STREET: An actual or proposed street with a right of way width greater than sixty feet (60') which provides for the rapid and relatively unimpeded movement of vehicular traffic between major land use centers in the City. Each major street in the City shall be classified as:

- A. A freeway, or
- B. An expressway, or
- C. A major arterial, or
- D. A minor arterial.

MINOR STREET: An actual or proposed street with a right-of-way width of sixty feet (60') or less which provides access to property in the City. Each minor street in the City shall be classified as:

- A. A collector street, or
- B. A residential street, or
- C. A minor residential street, or
- D. A hillside minor residential street, or
- E. An industrial street, or
- F. A frontage street, or
- G. An alley.³ (Ord. 76-78; 1968 Code § 13-21.1C)

15-3-704: REGULATIONS FOR STREETS SHOWN ON PLATS SUBMITTED FOR APPROVAL:

- A. Street System. Design and development of the street system in a plat submitted to City Council for approval shall conform with the requirements of this Article. Whenever a tract of land to be platted embraces or abuts a major street designated on the Major Traffic Thoroughfare Plan, such section of the major

1. See Section 15-3-102 of this Code.

2. For definitions of general application, see Section 1-1-203 of this Code.

3. See Subdivision Policy Manual for Design Standards.

- A) street shall be dedicated and constructed in the location and at the width indicated on the plan.

B. Street Design.

1. Basic Street Design. Except in cases where the City's Major Traffic Thoroughfare Plan or an official plan line specifies a greater or lesser width as a minimum, the minimum right of way, roadway, planter strip, sidewalk and pedestrian way widths shall be as indicated in the Subdivision Policy Manual.

2. Frequency of Street Intersections and Visibility. Street intersections shall be at right angles or as nearly so as topography and other limiting factors of good design will permit. "T" or "cross" intersections shall be used wherever possible and intersections designed on a curve shall not be allowed except when topography or other limiting factors warrant. Frequency of intersections shall be as outlined in the Subdivision Policy Manual. (Ord. 76-78; 1968 Code § 13-21.1D)

3. Cul-De-Sac Regulations. The design and overall length of a cul-de-sac shall be determined by topography, type of development, proposed density, and other physical factors which may warrant special consideration.

For any cul-de-sac over five hundred feet (500') long, as measured from the curb line at the furthest end of the cul-de-sac to the center line of the through street to which it connects, written approval must be obtained from the Fire Department and the Water Division of the Utilities Department prior to Planning Commission or Minor Land Subdivision Committee approval of the plat containing the proposed cul-de-sac. (Ord. 78-204; 1968 Code § 13-21.1D)

4. Half Streets. Half streets or portions of a street shall not be permitted.

5. Alleys. Where provided, alleys shall be fully improved to the specifications of the Public Works Design Manual, shall contain a right-of-way width of at least twenty feet (20') and shall be certified by the Director of Public Works as meeting such design specifications. The Planning Commission may prescribe the installation of alleys in commercial and industrial areas when such alley(s) are necessary for the good traffic circulation.

- B) 6. Grades. Grades shall be as prescribed in the Subdivision Policy Manual.

7. Curves. Minimum horizontal and vertical curves shall be as prescribed in the Subdivision Policy Manual.

8. Future Streets. The street system shall provide for the future projection of principal streets into unsubdivided lands adjoining, when such connections are necessary for the proper vehicular circulation of the area. Streets connecting to streets in an adjoining subdivision shall be of equal width in right of way and in street section.

9. Temporary Dead-End Streets. On streets which are stub-end streets designed to provide future connection with adjoining unsubdivided areas, there shall be provided a temporary turnaround at the stub-end or a temporary connection to another street if required by the Director of Public Works. If such a provision is required, the design for such stub-end or connecting street shall be approved by the Director of Public Works.

C. Private Streets.

1. Required. A private street or right-of-way shall be required to be provided by a property owner when any one of the following conditions is applicable:

a. The site, layout of the site, density of units or structures, or other circumstance adversely affects the ability of the Municipality or other governmental entity to adequately provide service or effectively maintain an adequate level of service to the site, or;

b. The intent and purpose of this Chapter, that is, to promote the general health, safety, convenience and welfare of the citizens, would be adversely affected, or;

c. Any applicable ordinance, regulation, rule or policy concerning the standards of design or construction for a public street is not met.

2. Design and Location. The location and design of a private street or right-of-way shall be subject to the review and approval of the Traffic Engineering Department and Fire Department.

- C) 3. Designation. The designation of a private street or right-of-way shall be subject to the requirements of Section 15-3-704D.

4. Street Name Signs. It is the responsibility of the property owner(s) or an authorized agency on his/her behalf to erect and forever maintain permanent signs that shall identify the name of each private street or right-of-way. Such a sign shall be of a brown background with white reflective lettering and shall, in every other respect, conform to the specifications of the Manual of Uniform Traffic Control Devices. Such a sign shall be erected no later than that point in time when the occupancy of one-half (½) of the units on the block face has occurred. Failure to erect said sign shall result in disapproval of final inspection, refusal to issue a certificate of occupancy, revocation of certificate of occupancy or other action authorized in Section 1-2-101, General Penalty of the Code of the City of Colorado Springs 1980, as amended. The property owner(s) or an authorized agency on his/her behalf, upon notification of noncompliance and subsequently failing to meet or cause to be met all applicable requirements shall be responsible for any and all expenses incurred on the part of the City of Colorado Springs or any authorized agent in the enforcement of and compliance with this Section.

D. Street Names.

1. Approval. All street names, both public and private, shall be subject to the approval of the Planning Department, Traffic Engineering, Emergency Response Administration (911), Fire Department and the Building Official. Numeric address assignment shall be subject to the approval of the Building Official as required in Section 16-1-503.

2. Street Name Regulations. All street names shall be established by the use of common English spelling. No directional entries shall be allowed as part of a street name, for example, but not by way of limitation, Northpointe Drive. Residential street names shall be limited to a maximum of ten (10) letters, not including the street name designation. Two (2) word street names shall be acceptable only when the first word has not been used more than six (6) times in any existing street name. Duplicate street names shall not be approved regardless of the

- D2) street designation, for example, but not by way of limitation, Chelton Road, Chelton Loop, Chelton Circle. Street names that closely approximate the spelling or phonetically sound similar to a platted street in El Paso County shall not be approved. For purposes of Section 15-3-704C, the official street name list to be used in the review of street names shall be that list, commonly known as the locate file, which is maintained by the emergency response administration (911).

3. Continuity of Names. Any street which is a continuation or a logical approximate extension of an existing dedicated street, a platted street, a deeded street, a proposed street as shown on an approved master plan or approved development plan or a street on the City of Colorado Springs major thoroughfare plan shall bear the same street name.

4. Small Cul-De-Sacs. Small cul-de-sacs which have less than five (5) interior lots shall bear the name of the intersecting street and the property shall be sequentially numerically addressed from the block series of the intersecting street.

5. Public Street Name Designation. Street name designations shall be used as follows.

a. Boulevard or Parkways. Shall be reserved for streets designated on the major thoroughfare plan which are planned to have a median divider of sufficient size to allow for landscaping.

b. Avenue or Road. Shall be reserved for streets of substantial continuity such as major or minor arterials of the major thoroughfare plan.

c. Street or Drive. Shall be reserved for streets of less continuity such as collector streets.

d. Court, Place, Circle, Way, Terrace, Lane, Loop, Trail or Path. Shall be reserved for streets with no continuity.

6. Private Street Name Designations. Any private street or right-of-way shall be designated as follows: Grove, Heights, Point or View.

7. Street Name Changes: All applications for street name changes, for both public and private

- D7) streets, or right-of-way, shall be submitted to the Planning Department in accordance with the requirements of the Department and are subject to the jurisdiction of the Hearing Officer.

In reviewing an application for a street name change, the Hearing Officer, Planning Commission upon referral or City Council upon appeal shall grant the street name change only upon determination that all of the following criteria are met:

a. No Adverse Impact. That the efficient, timely and convenient delivery of services and goods, public and private, to the people and their property will not be adversely affected.

b. Requirements of Section 15-3-704. That the requirements of this Section have been met.

c. Purpose of Chapter. That the street name change comes within the purpose of this Chapter, that is, to promote the health, safety, convenience and general welfare of the citizens.

An application for a street name change for a street that crosses jurisdictional boundaries shall require approval of all entities involved prior to the street name change becoming effective.

8. Temporary Posting of Public or Private Street Name Required. In order to ensure the timely and effective delivery of public services, including but not limited to emergency assistance, utilities provision and required inspections, it shall be the responsibility of the subdivider, his duly authorized agent or other subsequent property owner(s) to ensure the temporary posting of street names in subdivisions or areas of the City where new construction of building(s) is (are) occurring. Such temporary posting of a street name shall occur within a forty eight (48) hour time period following the issuance of the first building permit to allow construction in a block face. Such a street name sign shall be of any material that is weather resistant, shall be lettered to be legible and weather resistant, shall be placed in a location that is convenient and visible and at the appropriate intersection, and shall be maintained until a permanent sign is installed.

9. Temporary Access. Temporary access to any property shall not be construed as a guarantee of continued usage of any numeric address and/or street name which may have been assigned at time of approval of temporary access.

- E. Intallation of Curbs and Sidewalks. The following standards shall apply to the installation of curbs and sidewalks:

1. Curbs.

a. Type of Curb. Vertical type curbs shall be required on all City streets unless topographic or design considerations warrant special consideration for a waiver, which may be granted by the Director of Public Works. Should the Director of Public Works deny a request for waiver, his decision may be appealed to the Planning Commission and City Council in the same manner as a request for a waiver for the installation of public improvements as set forth in Section 15-3-1304 of this Article.

b. Curb Radius. Curb radius shall be as prescribed in the Subdivision Policy Manual.

2. Sidewalk Requirements.

a. Residential Zones. Sidewalks shall be required on both sides of every street for all developments with a net density of two (2) dwelling units per acre or greater; for developments of less than two (2) dwelling units per acre, sidewalks are required on one side of every street. The Director of Public Works may modify the requirements based on criteria established by the Director.

Sidewalks shall be required on both sides of every street within three (3) blocks of any school site.

Sidewalks shall be required adjacent to developed parks.

Time delays shall be at the discretion of the Department of Public Works at the time of building permit application only.

Acceptable assurances for sidewalk construction shall be filed as follows:

1. Subdivisions of ten (10) lots or less shall be required to post adequate assurance for one hundred percent (100%) of the sidewalks required.

2. Subdivisions of more than ten (10) lots shall post an assurance covering twenty percent (20%) of the required sidewalks based upon the total lineal footage.

- E2) b. Commercial Zones. In commercial or office zones, sidewalks shall be required on both sides of every street.

Time delays will be considered by the Director of Public Works only if he determines that sidewalks would not be beneficial to the public at the time the request for development is reviewed.

Acceptable assurances will not be required, but certificate of occupancy will be withheld until sidewalks are completed unless a time delay is approved in advance of building permit.

c. Industrial Zones. There shall be no sidewalks required in industrial zones, except next to arterial streets and sidewalks are required on both sides of arterials. The developer may have the option to place a bikeway on one side of an arterial street. Acceptable assurances shall be filed with the City prior to issuance of a building permit.

A sidewalk waiver may be granted by the Director of Public Works and the Director of Planning. Should the Director of Public Works or the Director of Planning deny a request for waiver, his decision may be appealed to the City Planning Commission and City Council as provided in Section 15-3-1304 of this Code. (Ord. 80-160; Ord. 86-106)

15-3-705: RIGHT OF WAY DEDICATION AND STREET IMPROVEMENTS:

- A. Minor Streets. The subdivider seeking preliminary/ final plat or final plat approval shall agree as a condition of preliminary/final or final plat approval to construct and dedicate all minor streets as shown on the preliminary/final or final plat¹.
 - B. Major Streets. The subdivider seeking preliminary/final or final plat approval shall agree as a condition of preliminary/final or final plat approval to construct and dedicate all major streets shown on the preliminary/final or final plat.² Such construction and dedication of major streets may be the subject of partial reimbursement by the City as set forth below.
 - C. Sharing of Improvement Costs. When a subdivider improves the entire width of a dedicated major street and the part or all of the subdivision is on one side of the improved major street, the subdivider is entitled to a fair share reimbursement of the cost of the improvement less any City reimbursement from any person who subdivides or develops land on the opposite side of the street within fifteen (15) years after acceptance of the street by the City. The original subdivider must file a cost recovery statement at the time of filing the final plat with the Director of Public Works in order to become eligible for future cost recovery. The cost recovery statement will be recorded with the El Paso County Clerk and Recorder by the Director of Public Works. The cost of recording shall be the responsibility of the subdivider. An application for a plat or building permit on the other side of the improved major street by an adjacent subdivider shall not be approved until a fair share reimbursement of the cost of the street improvements put in by the original subdivider shall have been made to the original subdivider. A signed notarized copy by the original and subsequent subdivider of the release of the cost recovery statement shall be submitted to the Director of Public Works. The release shall state that payment required by the provisions of this subsection have been made in full and that all parties agree to the release of the cost recovery statement. The release shall be recorded with the El Paso County Clerk and Recorder by the Director of Public Works. The cost of recording shall be the responsibility of the original subdivider.
- C) When the streets of a proposed land development do not connect with existing improved streets which are adequate to carry the traffic generated by the subdivision, then the City shall require the subdivider to pay the cost of all necessary improvements including right-of-way costs of connecting streets. The subdivider is entitled to fair share reimbursement of the cost of the off-site street improvements less any City reimbursement from the owner or owners whose property abuts the improved street and whose property is developed within fifteen (15) years after acceptance of the street by the City. The original subdivider must file a cost recovery statement at the time of filing his final plat with the Director of Public Works to be eligible for future recovery. The statement will be recorded with the El Paso County Clerk and Recorder by the Director of Public Works. The cost of recording shall be the responsibility of the original subdivider. During the fifteen (15) year period, an application for a plat or building permit from owners whose property abuts the improved street shall not be approved until a fair share reimbursement of the costs of the street improvement has been made to the original subdivider. All liability for improvement costs shall be limited for fifteen (15) years after acceptance of the street by the City. A signed notarized copy by the original subdivider and subsequent subdivider of the release of the cost recovery statement shall be submitted to the Director of Public Works and shall state that payment has been made in full and that all parties agree to the release of the cost recovery statement. The release shall be recorded with the El Paso County Clerk and Recorder by the Director of Public Works. The cost of recording shall be charged to the original subdivider.
- When required improvements have been completed the subdivider shall certify the cost of such improvements to the Director of Public Works by paid receipts. During such fifteen (15) year period, approval of plats or building permits for land abutting the street shall be conditioned upon payment of the fair share of the improvement costs as determined by the Director of Public Works. The determination of fair share shall be made by the Director of Public Works on a front foot basis. All liability for improvement costs shall be limited to a period of fifteen (15) years after acceptance of the improved street by the City. The Director of Public Works shall determine the fair share

1. See Section 15-3-1102 of this Chapter for letter of credit, cash or performance bond requirements.

2. Ibid.

- C) reimbursement on a front foot basis and shall on January 1 of the year following acceptance of the street by the City, and each year thereafter on January 1 add ten percent (10%) to such fair share. (Ord. 76-78; Ord. 85-226; 1968 Code § 13-21.1E)

15-3-706: PARTIAL REIMBURSEMENTS:

A. Costs Subject to Reimbursement.

1. As to a right of way for a major street dedicated after July 22, 1976, the fair market value of that portion of the right of way in excess of sixty feet (60') in width, shall be a cost subject to reimbursement, and

2. The actual costs of construction of the major street less the actual costs of:

(a) Grading the entire width of the major street,

(b) The installation of thirty six feet (36') in width of pavement mat and base course,

(c) The installation of drainage structures,¹

(d) The installation of sidewalks, and

(e) The installation of curb and gutter on each side of the full pavement mat.

(f) Any treatment given to the area between median curbs.

B. Determination of Reimbursement.

1. Specific Reimbursement. Each year prior to approving the City budget the City Council, with the advice and recommendation of the Planning Commission and City administration shall designate by resolution those sections of major streets for which the City shall partially reimburse the subdivider when completed. The Director of Public Works shall submit to City Council estimates of the costs of reimbursement for those sections of major streets designated for partial reimbursement which may be revised by the City Council. In the annual appropriation ordinance the Council shall appropriate moneys for reimbursement equal to the estimates of the Director of Public Works or as revised by the City Council, and such moneys shall be kept in the

- B1) "Public Works - Major Street Reimbursement Fund". Reimbursement shall be made for those sections of major streets which are specifically designated by City Council and only in the amount specifically appropriated by the City Council.

2. General Reimbursement. Each year as a part of the City budget the City Council may appropriate additional moneys to the "Public Works - Major Street Reimbursement Fund" for the purpose of reimbursing land developers, subdividers or owners who dedicate land for major streets after July 22, 1976 or who construct major streets, or both, but who are not eligible for specific reimbursement as set forth in paragraph 1 above. General reimbursement, if made, shall be for only those items set forth in Section 15-3-706A, and general reimbursement, if made, shall only be after the criteria of Section 15-3-706D have been met. General reimbursement, if made, shall be on the basis of first certified under Section 15-3-706D, first paid. These general reimbursement provisions do not constitute any guarantee of reimbursement nor shall they be construed as creating a debt on the part of the City. General reimbursement shall only be made if there are nondesignated funds available in the "Public Works - Major Street Reimbursement Fund".

- C. Time for Holding Funds for Partial Reimbursement. In the resolution designating the uncompleted sections of major streets for reimbursement, the City Council shall establish a date certain by which the designated portion of the major street shall have been constructed in accordance with plans approved by the Director of Public Works and accepted for maintenance by the City by the Director of Public Works. The appropriation to the "Public Works - Major Street Reimbursement Fund" shall continue in effect without lapse until such date certain. Upon the passing of the date certain as established by the City Council and the subdivider has failed to meet the conditions set forth in Section 15-3-706D below, such moneys shall automatically lapse into the "Public Works - Major Street Reimbursement Fund".

D. Conditions of Reimbursement.

1. The City shall reimburse only those persons or entities that owned the major street right of way when dedicated. The City shall reimburse

¹ Major street bridges shall be treated separate and apart from this Part 7. Part 10 covers the construction reimbursements for major street bridges.

D1) only those persons or entities that paid for the actual costs of construction or both, or those persons or entities who have valid assignments for such reimbursements.

2. The City shall make reimbursement when the major street has been constructed in accordance with plans approved by the Director of Public Works and accepted for maintenance by the City by the Director of Public Works.

E. Fair Market Value. The fair market value of the right of way dedicated to the City shall be determined as of the time of preliminary/final or final plat approval in accordance with the following:

1. The City and the owner may agree as to the fair market value, or

2. The City and the owner may apply to a court of competent jurisdiction for determination of just compensation as provided in C.R.S. 1973 Article 1, Title 38, as amended.¹ (Ord. 76-78; 1968 Code § 13-21.1F)

1. See City of Colorado Springs, "Handbook for the Acquisition of Property by the City of Colorado Springs" Resolution 103-74, as amended.

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 8 REQUIRED IMPROVEMENTS

SECTION:

- 15-3-801: Installation and Completion of Improvements
- 15-3-802: Improvements of Portions of Tract
- 15-3-803: Actual Construction of Improvements
- 15-3-804: Acceptance of Improvements
- 15-3-805: Installation of Septic Tanks
- 15-3-806: Undergrounding of Utilities
- 15-3-807: Improvement Plans

15-3-801: INSTALLATION AND COMPLETION OF IMPROVEMENTS:

The improvements required below shall be constructed and installed by the subdivider or provisions made therefor, prior to the final approval of the subdivision and the final plat thereof. In lieu of the completion of such improvements, the subdivider may provide acceptable assurance to secure to the City the actual construction of the improvements within such period as shall be determined by the Director of Public Works or the Director of Utilities. Said assurance shall be in an amount adequate to cover the cost of the improvements as determined by the Director of Public Works or the Director of Utilities. The assurance, and all conditions thereof, must meet the satisfaction of the City Council. The following improvements shall be provided by the subdivider:

- A. Permanent Survey Monuments, Range Points and Lot Pins. As required by State law. (Ord. 4011; 1968 Code § 13-22)
- B. Time Delay for Installation of Public Improvements. Subdividers who desire to delay the installation of public improvements required by this Part 8 shall submit to the Director of Public Works on such forms as provided by said Director their requests for a time delay of the installation of public improvements. The Director shall review and either approve or disapprove the request. If the request is

B) approved the Director shall require the subdivider to execute an agreement for the delay of installation of public improvements, and such agreement shall be recorded. Should the Director of Public Works deny the subdivider's request for a time delay in the installation of public improvements, the subdivider may appeal the decision of the Director of Public Works to the Planning Commission and City Council in the same manner as a request for a waiver for the installation of public improvements as set forth in Section 15-3-1304. The Planning Commission and City Council shall treat such appeal as a request for action on a request for time delay for the installation of public improvements not as a request for a waiver for the installations of public improvements. (Ord. 77-149; 1968 Code § 13-22A)

C. Water, Wastewater Lines and Fire Hydrants. The subdivider shall pay for the installation and construction of all the required water lines, sewer lines and fire hydrants in compliance with this Code and the regulations of the Utilities Department relating to the installation and extension of water and wastewater lines. The sections of this Code regulating the installation and extension of water and wastewater lines are as follows:

- 1. Wastewater, Water Lines, When May be Laid. Sections 12-4-512 and 12-5-505 of this Code.
- 2. Wastewater Permits and Connection Charges. Chapter 12, Article 5, Part 6 of this Code.
- 3. Taps, Service Lines and Use of Water. Chapter 12, Article 4, Parts, 4, 5 and 6 of this Code.
- 4. Storm Drainage Improvements. As required under Part 9 of this Article. (Ord. 4011; 1968 Code § 13-22A)

- D. **Right of Way Stabilization.** Stabilization of land within the right of way of any street or road, is required to the extent deemed necessary by the City Engineer and consistent with any requirements of the zoning regulations. Prior to the final acceptance of any improvements within the right of way, the City Engineer shall be satisfied that no existing or potential erosion problems exist within the right of way or on land adjacent to such right of way which could affect the stability of the right of way. The subdivider shall guarantee such right of way stabilization for a period of one year from the date of final acceptance. The Director of Public Works shall require acceptable assurance for ten percent (10%) of the cost of the work as part of such guarantee. Continued maintenance of the area shall be the responsibility of the owners of the property adjacent to the right of way. (Ord. 4822; 1968 Code § 13-22A)

15-3-802: IMPROVEMENTS OF PORTIONS OF TRACT: Approval of the plat of the entire area of the subdivision may be given, and improvements may be installed in only a portion of the subdivision; provided that a street or streets are dedicated or provided to allow access to said portion, and the improvements are installed on said street or streets. Any utilities constructed in a portion of a subdivision shall be designated and built in such a manner that they can be extended or expanded to serve the entire subdivision. (Ord. 4011; 1968 Code § 13-22B)

15-3-803: ACTUAL CONSTRUCTION OF IMPROVEMENTS: No construction of subdivision improvements shall be started until the improvement plan for the entire area covered by the final plat has been approved by the Director of Public Works. After the improvement plans have been filed, and the approval of the Director of Public Works and the Director of Utilities has been obtained, the subdivider shall construct the required improvements subject to obtaining the required permits from the Department of Public Works and the Department of Utilities for wastewater and water systems. (Ord. 4011; 1968 Code § 13-22D)

15-3-804: ACCEPTANCE OF IMPROVEMENTS: All required subdivision improvements, as

specified in this Article and other applicable City ordinances and regulations, shall be fully constructed and approved by the Director of Public Works and Director of Utilities, and a written notice of approval shall be transmitted to the subdivider. The approval of the improvements by the City shall be contingent upon the subdivider guaranteeing and being responsible for any defects of said improvements for a one year period after acceptance by the City, which acceptance shall be in writing. (Ord. 4011; 1968 Code § 13-22E)

15-3-805: INSTALLATION OF SEPTIC TANKS: In areas where public wastewater systems are not accessible, individual wastewater disposal systems may be installed only after the approval of the City Manager in accordance with Section 12-5-701 of this Code. (Ord. 4439; 1968 Code § 13-22F)

15-3-806: UNDERGROUNDING OF UTILITIES: Telephone lines, electric lines up to thirty thousand (30,000) volts and other like utility services shall be placed underground unless waived by the City Council after consideration by the Planning Commission. Transformer, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities may be placed above ground. The provisions of this Section shall not apply to existing facilities or to any preliminary, preliminary and final or final plat which has been approved by the Planning Commission prior to the adoption of this Article.¹ (Ord. 4011; 1968 Code § 13-22G)

15-3-807: IMPROVEMENT PLANS:

- A. **Public Works Department.** The subdivider shall submit to the Director of Public Works for his approval the following documents prior to construction:

1. **Final Plans and Profiles of All Streets and Alleys.** Profiles shall be drawn to a scale of fifty feet (50') horizontal and five feet (5') vertical of streets and alleys which meet the approval of the Director of Public Works. Sheets shall be twenty four inches by thirty six inches (24" x 36"), one street per sheet, and said street should include on the right-hand side a typical street cross section specification in accordance with standards approved by the Director of Public Works.

1. The Subdivision Code was adopted by Ord. 4011, which became effective March 24, 1970.

- A) 2. For All Areas Where Final Graded Slope Will be Ten Percent (10%) or Greater. Plans on a scale of one inch (1") to forty feet (40') with a contour interval of two feet (2') shall be submitted indicating clearly all cut and fill areas. Existing contours and finished grade contours shall each be shown. Such plans shall be submitted for any land designated a hillside area on the Zoning Maps of the City. (Ord. 4822; 1968 Code § 13-22H)
- B. Utilities Department. The subdivider shall submit to the Director of Utilities for his approval the following documents prior to construction:
1. Water Distribution System. Four (4) copies of the water distribution system for the entire subdivision area, said plan to include all information required by the Director of Utilities. Said system shall be of efficient design and of a capacity to furnish an adequate water supply for each lot in the subdivision and for adequate fire protection to the area, as determined by the Department of Utilities and the City Fire Department.
 2. Wastewater System. Three (3) copies of the wastewater plan for the entire subdivision area, said plan to include all information required by the Director of Utilities. Said wastewater system shall furnish connections to each lot. (Ord. 4011; 1968 Code § 13-22)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 9 SUBDIVISION DRAINAGE FACILITIES

SECTION:

- 15-3-901: Purpose
- 15-3-902: Studies of Drainage Basins
- 15-3-903: Boundaries Delineated
- 15-3-904: Exclusions and Exemptions
- 15-3-905: Annexed Lands
- 15-3-906: Subdivider to Prepare Drainage Reports and Detailed Drainage Plans
- 15-3-907: Credit for Facilities
- 15-3-908: City Responsible for Accepted Facilities
- 15-3-909: Cooperation With Subdividers
- 15-3-910: Recreation Department Plan for Multiple Use of Facilities
- 15-3-911: Subdivision Storm Drainage Board
- 15-3-912: Allocation of Interest Earned
- 15-3-913: Applicability of Provisions

15-3-901: PURPOSE:

- A. The Council hereby finds, determines and declares the urgent necessity of providing storm drains and other facilities for the drainage and control of flood and surface waters within areas and territories to be subdivided and developed and the Council further finds and declares that said facilities are required for the proper and orderly development of said areas and territories in order that storm and surface waters may be properly drained and controlled and that the health, property, safety and welfare of the City and its citizens may be safeguarded and protected. (Ord. 2841; 1968 Code § 13-30)
- B. The Council further finds, determines and declares that it is necessary under all the attendant circumstances that the owner and developer of the subdivision shall provide the drainage facilities within his subdivision necessary for the drainage and control of surface water within his subdivision and also to provide the facilities required to convey such drainage waters to such outflow or discharge point as shall be indicated in the master drainage

- B) plan for the drainage basin and area within which the subdivision is located. (Ord. 2841; 1968 Code § 13-31)

15-3-902: STUDIES OF DRAINAGE BASINS:

The City Manager shall cause to be made engineering studies of drainage basins surrounding the City and which either extend into the City or which affect or may affect present or future City territory and drainage therein. Said studies are to be authorized as finances become available. These studies and investigations shall show the conduits, channels, natural drainage courses, sometimes called "green belts", retention reservoirs, easements, culverts and all other facilities which are required to provide for the drainage and control of surface waters within said basins and to carry such waters to designated points of outflow or discharge. The studies shall include an estimate of the cost of providing the said drainage facilities, the computation of such costs to include the expense of the studies. The estimated cost per acre of providing said facilities shall be determined within each drainage basin by dividing the number of acres within said drainage basin into the total cost as herein provided. Large open public park areas shall not be included in total area. City participation in this case shall be determined by the City Council as recommended by the Storm Drainage Board. This per acre cost shall be known as the unit drainage fee. Prior to January 1 of each year the unit drainage fee shall be reviewed by the Drainage Board who shall make a recommendation to the City Council as to any adjustment to the fee. Upon such recommendation the City Council shall establish by resolution the unit drainage fee in each drainage basin to be effective January 1 of each year. The said unit drainage fee will be reestablished in accordance with changes in construction and other costs or revisions suggested by additional studies or other information obtained. (Ord. 2841; Ord. 84-262; 1968 Code § 13-32)

15-3-903: BOUNDARIES DELINEATED:

As soon as possible after the adoption of this Part 9, the boundaries of the drainage basins mentioned in this Part 9 will be delineated upon a map or maps.

There will also be shown upon said map or maps the areas in said basins which have been platted, subdivided or developed into business or residential areas and those areas therein which are presently unimproved. Such additional information or data as may be determined to be desirable by the Director of Public Works may be shown upon said map or maps. When approved by the Council, these maps shall serve as official designations of the respective drainage basins concerned in this Part 9, but the maps shall be subject to revision from time to time to conform with existing conditions. (Ord. 2841; 1968 Code § 13-33)

15-3-904: EXCLUSIONS AND EXEMPTIONS:

- A. There are excluded and exempted from the provisions of this Part 9 those territories which have been presently subdivided and the final plats of which have been approved by the Council or the Board of County Commissioners of the County of El Paso on or before April 28, 1964; provided, however, that those areas and territories which have been annexed to the City upon the conditions and understanding that said lands would be subject to the provisions of a drainage control ordinance and the payment of drainage fees, whether or not the plats therefor have been approved, shall be subject to the provisions of this Part 9; provided, further however, that where there are developed and undeveloped areas within the same basin resulting in some of the areas being excluded from the requirements of this Part 9, and the drainage program of the undeveloped territory involves and is inter-related with the developed areas, the City shall pay the costs of that part and capacity of the drainage facilities required to transport storm water runoff from the developed areas, through the undeveloped area to the point of discharge, or create an improvement district or districts for such purpose, where legally permissible. (Ord. 79-60; 1968 Code § 13-34)
- B. Pursuant to the recommendation of the Subdivision Storm Drainage Board, adopted at its meeting of October 15, 1963, there are exempted and excluded from the provisions of this part that area and territory which is tributary to Shooks Run. (Ord. 2932; 1968 Code § 13-34)
- C. Pursuant to the recommendation of the Subdivision Storm Drainage Board adopted at

- C) its meeting of September 15, 1977, there are exempted and excluded from the provisions of this Part 9 construction of the main Fountain Creek Channel from the confluence of Fountain Creek with Monument Creek northwest to the City limits. Land developments taking place adjacent to Fountain Creek shall remain responsible for dedicating rights of way necessary for the channelization of Fountain Creek, and the developers shall continue to pay to the City as a condition of subdivision plat approval the applicable drainage fees. (Ord. 77-162; 1968 Code § 13-34)

15-3-905: ANNEXED LANDS: The owner or owners of lands which have been annexed to the City upon the condition and understanding that said lands would be subject to the provisions of a drainage control ordinance and the payment of drainage fees, whether or not the plats for said lands have been approved, and the owners of lands presently or hereafter annexing the same to the City shall prior to final publication of the annexing ordinance agree in writing with the City that the lands are subject to and they will comply with the provisions of this Part 9, including the payment of fees hereunder. The said owner or owners shall further agree in writing that the required fees shall be paid prior to the final approval of the plat or other plan for or release of land for development and that the drainage facilities will be installed within and in connection with the subdivision of the land as required in this Part 9. (Ord. 2841; 1968 Code § 13-35)

15-3-906: SUBDIVIDER TO PREPARE DRAINAGE REPORTS AND DETAILED DRAINAGE PLANS: Prior to final approval of the plat of a subdivision, or part thereof for which final approval is requested, the subdivider shall, at his expense, prepare a drainage report which shall show the channels, conduits, reservoirs, culverts, bridges, easements and all other drainage facilities for the control and drainage of surface water within said subdivision, or the part thereof to be approved, and the carriage of such water to a safe discharge or outflow point, all in conformity with the master plan of the drainage basin as approved by the City, together with the estimated cost of constructing these facilities. After final approval of the plat of a subdivision and prior to the issuance of any building permits within said subdivision, the subdivider shall, at his expense, prepare detailed

plans and specifications for the construction and installation of channels, conduits, reservoirs, culverts, bridges, and easements and all other drainage facilities for the control and drainage of surface water within said subdivision, or the part thereof to be approved, and the carriage of such water to a safe discharge or outflow point, all in conformity with the master plan of the drainage basin as approved by the City. All such drainage reports and detailed plans and specifications shall be submitted to the Department of Public Works. All such drainage reports detailed plans and specifications shall bear the seal of a registered professional engineer of the State of Colorado and a statement signed by the engineer that such drainage reports and detailed plans and specifications have been prepared according to the criteria established by the City for drainage reports and detailed plans and specifications and that such drainage reports and detailed plans and specifications are in conformity with the master plan of the drainage basin; that such drainage reports and detailed plans and specifications meet the purposes for which the particular drainage facility is designed; and that the engineer accepts responsibility for any liability caused by the negligent acts, errors or omissions of the engineer in preparing the detailed plans and specifications. Upon submission of the drainage report, the plat or portion thereof involved may be given final approval by the Council subject to an acceptable assurance to the City that the facilities will be constructed and installed as indicated; provided, however, that such assurance may, if desired, be furnished after final approval of a plat upon condition that said plat be not finally executed or recorded until such assurance is furnished.

If undue hardship would result to the subdivider by reason of the carriage of the water to the ultimate discharge or outflow point as shown on the master plan, the Subdivision Storm Drainage Board may designate another discharge or outflow point at which said water will be received by an open channel, or other minimum or substitute facility to carry the water. (Ord. 82-50)

15-3-907: CREDIT FOR FACILITIES:

A. Subdivider May be Credited. Upon the completion and acceptance of the drainage facilities for a subdivision as required by this Part 9, the unit drainage fees payable by the subdivider upon the land in the subdivision or that portion thereof upon which final approval has been given and to which said facilities are applicable, will be computed and if the amount of said fees is less than the cost of providing the aforesaid facilities, the subdivider or, by written agreement approved by the City, any other party

A) shall be entitled to a credit from the appropriate sub-fund of the basin involved of the Subdivision Storm Drainage Fund in an amount that the cost of providing said facilities exceeds the fees payable by said subdivider; provided, however, that if the final approval is applicable to only a portion of the subdivision or tract or tracts of land owned by the subdivider and located within the drainage basin, at the option of said subdivider, the credit for the cost of the facilities installation in excess of the applicable fees for the portion so approved may be applied upon and credited to the drainage fees upon the balance of the said subdivision or tract or tracts of land when owned by the subdivider, provided that said subdivider furnishes the Subdivision Storm Drainage Board satisfactory evidence that the subdivider owns the subdivision or tract or tracts of land or has entered into a written contract to purchase the same, as of the date that application for said credit is made. The subdivider may at his option determine to build drainage facilities as required by the master drainage plan prior to subdividing or otherwise developing land. In that event the fees applicable to the land proposed to be subdivided or otherwise developed may, with the approval of the City, be fixed at the time the subdivider contracts for the construction of the drainage facilities in accordance with subparagraph B of this Section. (Ord. 2996; Ord. 83-139; 1968 Code § 13-37)

B. Determination of Credit for Drainage Facilities. The credit to which a subdivider shall be entitled from the appropriate sub-fund of the basin involved in the Subdivision Storm Drainage Fund, as set forth in subsection A above, shall be determined on the basis of the actual cost incurred in constructing the drainage facilities, plus ten percent (10%) for engineering expense. The subdivider shall be responsible for contracting for the construction of the drainage facilities after receiving at least three (3) sealed bids for construction of the drainage facilities. If the subdivider is unable to get at least three (3) sealed bids the City Engineer shall be responsible for determining that the bid or bids received are the lowest responsible bids. The decision of the City Engineer may be appealed to the Drainage Board. Bidders must be on the City's approved contractor list. The subdivider shall award the bid to the lowest responsible bidder within thirty (30) days after receiving the bids. Should the bids exceed the estimate of the cost of constructing the drainage facilities as set forth in the approved drainage plan they shall be rejected unless the subdivider's engineer and the Director of Public Works or his designated

- B) representative determine that any bid exceeding the engineer's estimate is the lowest responsible bidder unless the subdivider declares his desire to accept a higher bid. If such is the case any credit shall be based on the lowest responsible bid. Any disputes pertaining to this Section shall be referred to the Drainage Board for determination, and decisions of such Board may be appealed to the City Council as set forth in Section 15-3-911B of this Part 9. (Ord. 79-73; Ord. 83-139; 1968 Code § 13-37.1)

15-3-908: CITY RESPONSIBLE FOR ACCEPTED FACILITIES: All drainage facilities and appurtenances constructed or provided under this Part 9 shall upon written acceptance by the City become the property of the City and the City thereafter shall be responsible for the operation and maintenance of the same. (Ord. 2841; 1968 Code § 13-38)

15-3-909: COOPERATION WITH SUBDIVIDERS: The City shall cooperate with and assist subdividers subject to the provisions of this Part 9 by exercising its power of eminent domain to obtain rights of way for drainage facilities, the adoption of ordinances and resolutions for the control of drainage channels and waters therein, and similar matters. The City's cost of condemning any drainage easements required pursuant to an approved drainage plan will be paid by the subdivider as the costs are incurred by the City and shall include all costs of condemnation including appraisal fees and court costs. The City may require letters of credit or other financial assurances in amounts it determines reasonable to assure payment prior to commencing condemnation. The subdivider is entitled to a fair share reimbursement of the cost of such drainage easements from owners abutting the drainage easement whose property is subdivided or developed within a period of fifteen (15) years after the drainage easement is obtained. Application for a plat or building permit by the abutting owner shall not be approved until a fair share reimbursement of the cost of the drainage easement shall have been made to the original subdivider. The Director of Public Works shall determine the fair share reimbursement, which shall be a pro rata share on a front foot basis unless otherwise determined by the Director. All liability for repayment of the drainage easement cost shall be limited to a period of fifteen (15) years after the drainage easement is obtained by the City. All monies so collected shall be refunded to the original subdivider who paid for the condemnation

of the drainage easement involved. On January 1 of the year following the City's obtaining the drainage easement and on each year thereafter on January 1, the prior year's fair share reimbursement shall be increased by ten percent (10%). Payments by subdividers for drainage easements pursuant to this subsection shall not be a credit against applicable drainage fees nor shall repayment of any costs of acquiring drainage easements pursuant to this subsection be an obligation of the Subdivision Storm Drainage Fund of the basin involved. (Ord. 86-51)

15-3-910: RECREATION DEPARTMENT PLAN FOR MULTIPLE USE OF FACILITIES: Wherever possible, the Parks and Recreation Department shall plan multiple use of retention reservoirs sites and green strips and if possible combine these areas with parks for use and maintenance. In the event that such green strips are so used for park and recreational purposes the subdivider making available and granting these strips for the aforesaid uses shall be allowed credit for fees payable under the subdivision ordinance for parks and public ways to the extent of the appraised value of the land within the boundaries of such green strips. (Ord. 2841; 1968 Code § 13-41)

15-3-911: SUBDIVISION STORM DRAINAGE BOARD:

- A. Creation. There is hereby created the Subdivision Storm Drainage Board which shall consist of five (5) members. Appointments to the Board shall be made in such manner as to achieve staggered three (3) year terms. The Board members shall be appointed by the City Council. The Director of Public Works shall be the Secretary of the Board without vote. One member of the Board shall be a banker; one member shall be a land developer experienced in the subdivision and improvement of land; one member shall be a registered practicing engineer qualified in the subdivision and development of lands; one member shall be a registered practicing engineer qualified in drainage matters incident to the subdivision and development of lands and one member shall be a person actively engaged in the construction and sale of housing. In addition to the duties herein specifically granted the Board, it shall work with and advise the Director of Public Works and other City officials in carrying out the provisions of this Part 9, shall

- A) administer the Subdivision Storm Drainage Fund pursuant to this Part 9, generally assist in accomplishing the objectives of this Part 9 and recommend to the Council changes in this Part 9. (Ord. 2841; Ord. 3605; 1968 Code § 13-42)
- B. Responsibilities. The Board shall be responsible for recommendations to the City Council for:
1. Investment of surplus funds that may temporarily accumulate in the Storm Drainage Fund; and
 2. For all repayments to be made from said Fund. The Board may adopt rules and by-laws to provide for its officers and the time and conduct of its meetings. Decisions of the Board may be appealed to the City Council within six (6) days of the decision and may be modified or reversed upon a vote of the majority of the members of the Council. (Ord. 2841; Ord. 83-46; 1968 Code § 13-43)

15-3-912: ALLOCATION OF INTEREST EARNED:

Interest earned by the investment of surplus funds that may temporarily accumulate in the Storm Drainage Fund shall be allocated to a drainage contingency fund which may be used to make up deficits in existing sub-funds for purposes of reimbursement or for such other drainage purposes as determined by the Drainage Board with the prior approval of City Council. (Ord. 78-26; 1968 Code § 13-43.1)

15-3-913: APPLICABILITY OF PROVISIONS:

- A. Land, not otherwise excluded or exempted under Section 15-3-904 of this Part 9. 1. Upon which drainage fees have not been assessed, or
2. Upon which drainage facilities have not been built in accordance with accepted detailed drainage plans and specifications, or
3. Upon which detailed drainage plans and specifications have not been submitted,
- shall not be finally replatted or resubdivided until the terms of this part are complied with.
- B. Land.

- B) 1. Upon which drainage fees have been paid, or
2. Upon which drainage facilities have been built in accordance with accepted detailed plans and specifications,
- may be replatted or resubdivided without additional assessment of drainage fees or construction of additional drainage facilities if the drainage study submitted with the replat or resubdivision indicates no new drainage facilities are required as a result of said replat or resubdivision. (Ord. 76-13; Ord. 78-65; 1968 Code § 13-43.2)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 10 ARTERIAL ROADWAY BRIDGES

SECTION:

15-3-1001: Purpose

15-3-1002: Definitions

15-3-1003: Studies of Needs; Establishment of
Per Acre Cost

15-3-1004: Review by Subdivision Storm Drainage
Board and City Council

15-3-1005: Fees and Charges

15-3-1006: Changes

15-3-1001: **PURPOSE:** It is the purpose of this Part 10 to set forth a system under which the cost of constructing or expanding freeway, expressway and major or minor arterial roadway bridges, (hereinafter "arterial roadway bridges") in the City, can equitably be funded. (Ord. 74-9; 1968 Code § 13-44)

15-3-1002: **DEFINITIONS:**¹ The following terms, as used in this Part 10, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

ARTERIAL ROADWAY: Those roadways designated as freeway, expressway, major arterial or minor arterial on the City Major Traffic Thoroughfare Plan.

ARTERIAL ROADWAY BRIDGE: A structure which is constructed to carry an arterial roadway over any natural or manmade drainage way. (Ord. 74-9; 1968 Code § 13-45)

15-3-1003: STUDIES OF NEEDS; ESTABLISHMENT OF PER ACRE COST:

A. The Director of the Department of Public Works shall make periodic engineering studies of those roadways designated on the City

A) Major Traffic Thoroughfare Plan as freeways, expressways or major or minor arterial roadways in relation to the drainage basins in the City, and he shall determine and specify on the drainage basin maps of the City, proposed or expanded arterial roadway bridges.

B. The Director of Public Works shall, after the completion of the arterial roadway bridge needs study, make an estimate of the cost for the expansion or construction of each arterial roadway bridge designated in each drainage basin.

C. The Director of Public Works shall then estimate that portion of the total estimated cost of each arterial roadway bridge that is attributed to the width of such bridge in excess of sixty eight feet (68'). Such estimate shall be made by determining the percentage of the arterial roadway bridge over sixty eight feet (68') and then by multiplying the total estimated cost by such percent. The product shall be the responsibility of the City and the Director's estimate shall be final. The Director shall deduct from the total estimated cost, his estimate of that portion of the total estimated cost allocable to that portion of such bridge in excess of sixty eight feet (68') in width. He shall then total all remaining costs for all the arterial roadway bridges in the given drainage basin, and divide such total by the total acreage of the drainage basin and determine a per acre cost for new or expanded arterial roadway bridges in the drainage basin to be paid into the Arterial Roadway Bridge Fund established for each drainage basin. (Ord. 74-9; 1968 Code § 13-46)

15-3-1004: REVIEW BY SUBDIVISION STORM DRAINAGE BOARD AND CITY COUNCIL:

The Director of Public Works shall report such arterial roadway bridge per acre cost to the Subdivision Storm Drainage Board.² The Subdivision Storm Drainage Board shall review the

1. For definitions of general application, see Section 1-1-203 of this Code.

2. See Section 15-3-911 of this Article.

estimates of the Director of the Department of Public Works and then report and recommend to the City Council a per acre arterial roadway bridge cost for each drainage basin. City Council shall establish by resolution a per acre arterial roadway bridge cost for each drainage basin. Once established, such per acre cost shall be paid by each landowner as his land within the drainage basin is platted. Payment of the per acre cost shall be in cash to the applicable arterial roadway bridge fund. The funds collected shall be used only for the construction or expansion of new or expanded arterial roadway bridges as designated on the drainage basin maps by the Director of Public Works. (Ord. 74-9; 1968 Code § 13-47)

15-3-1005: FEES AND CHARGES:

- A. Re-Establishment of Fees. The arterial roadway bridge per acre cost may be re-established by the City Council as necessary. Such re-establishment of the per acre cost shall be based on changes in construction and other costs of revisions suggested by additional studies or other information obtained. (Ord. 74-9; 1968 Code § 13-48)
- B. City's Contribution. The City will contribute to each arterial roadway bridge fund established in each drainage basin that cost per acre that is attributed to land within the drainage basin for which the City Council has approved a preliminary/final plat or a final plat on the effective date of this Part 10. Such City contribution will be made only after the City Council has budgeted and approved such expenditure. (Ord. 74-9; 1968 Code § 13-49)
- C. Reimbursement to General Fund. Should the City appropriate front end money to facilitate the construction of new or expanded arterial roadway bridges in excess of its mandatory contribution, such excess amount shall be paid back to the City's General Fund as land within the applicable drainage basin is platted, and until the City's excess payment is accounted for. As more land is platted payment in the drainage basin shall then be to the applicable arterial roadway bridge fund. (Ord. 74-9; 1968 Code § 13-52)
- D. Adjustment to Drainage Basin Fund. As the per acre cost for the arterial roadway bridges is determined, the Subdivision Storm Drainage

- D) Board and City Council shall adjust the unit drainage cost for the drainage basin. (Ord. 74-9; 1968 Code § 13-51)

15-3-1006: **CHANGES:** Should an arterial roadway be stricken from the Major Traffic Thoroughfare Plan and corresponding arterial roadway bridge not be necessary, credit or a refund as determined by the Storm Drainage Board, may be granted to those persons, including the City, who have contributed for such bridge. (Ord. 74-9; 1968 Code § 13-50)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 11 ASSURANCES AND GUARANTEES FOR PUBLIC IMPROVEMENTS

SECTION:

- 15-3-1101: Statement Required
- 15-3-1102: Specific Requirements Prior to Building Permit Issuance
- 15-3-1103: Obligations of Land Owners
- 15-3-1104: Return of Fees and Release of Assurance
- 15-3-1105: Renewal and Update of Acceptable Assurance

15-3-1101: STATEMENT REQUIRED: The final plat approved by the City Council shall contain the following statement:

"No building permits shall be issued for building sites within this plat until all required fees have been paid and all required public improvements and utilities have been installed as specified by the City of Colorado Springs or, alternatively, until acceptable assurances, including but not limited to letters of credit, cash, construction bonds or combinations thereof, guaranteeing the payment of the fees and the completion of all required public improvements and utilities have been placed on file with the City of Colorado Springs. All streets, alleys and easements shown on this plat for access purposes are excepted from this provision." (Ord. 76-178; 1968 Code §§ 13-22.1A, B)

15-3-1102: SPECIFIC REQUIREMENTS PRIOR TO BUILDING PERMIT ISSUANCE:

A. Streets and Drainage Improvements.

1. Whenever the tract of land to be platted embraces or abuts a major street (street with ROW width greater than 60')¹ or major drainage improvement, (drainage facilities with a capacity in excess of 500 cfs), or whenever a major street or major drainage improvement is

A,1) necessary to serve the land to be platted, such major street or major drainage improvement, or both, shall be completed prior to the issuance of building permit or acceptable assurance guaranteeing the completion of said major streets or drainage improvements shall be filed with the City.

2. All other drainage improvements necessary to convey storm water runoffs from or through the land to be platted to protect the building sites for which the building permit is requested, or to protect downstream property owners, shall be installed, completed and accepted by the City at the time of issuance of the building permit. The City Engineer may authorize the issuance of building permits before drainage improvements are installed, completed and accepted by the City provided that the permit applicant agrees to simultaneously construct the drainage improvements with the buildings for which the permits are issued. No such buildings constructed shall be occupied until the City has accepted the drainage improvements.

B. Utilities. All utilities, within the land to be platted necessary to serve the site for which a building permit is requested, shall be installed, completed and approved or acceptable assurance guaranteeing the completion of the installation of such utilities shall be filed with the City prior to the issuance of the building permit. The payment of all fees, the completion of all construction or the filing of acceptable assurance necessary to arrange the installation of utilities external to the subdivision in order to enable utilities to be served to the platted land shall be the responsibility of the subdivider.

C. Streets. Minor streets serving as access to a requested building permit site, shall be installed, completed and approved, or acceptable assurance guaranteeing the completion of said improved access shall be

¹ See Part 7 of this Article.

- C) placed on file with the City prior to the issuance of a building permit. (Ord. 76-178; 1968 Code § 13-22.1D)

15-3-1103: OBLIGATIONS OF LAND OWNERS:

The obligation for public improvements and utilities as set forth in this Code shall be the obligation of the land owner. This obligation for public improvements shall run with the land and shall be the obligation of future land owners, successors in interest, assignees or any such other persons who take title to the property or any lot or part thereof. (Ord. 76-178; 1968 Code § 13-22.1E)

15-3-1104: RETURN OF FEES AND RELEASE OF ASSURANCE:

- A. In the event of impossibility of proceeding with a development for which a final plat has been approved, under an order of any court or other public authority having jurisdiction, including the City, or as a result of an act of government, such as but not limited to a declaration of national emergency making materials unavailable through no act or fault of the subdivider or natural catastrophe such as flood or earthquake or similar act or occurrence over which the subdivider has no control, the subdivider may apply to the Director of Public Works for return of fees paid for drainage or school and park, or both, and release of acceptable assurance on file with the City; provided, however, that no fee or payment theretofore paid shall be refunded or acceptable assurance released unless the recorded plat for which the fees were paid or acceptable assurance was filed is vacated.
- B. Upon receipt of such application, the Director of Public Works shall investigate the circumstances set forth in the letter of application to verify the same. If he finds no sales of land in a subdivision with reference to the final recorded plat, he may relieve the subdivider from the requirement of filing acceptable assurance and may release the assurance previously filed with the City and refund the fees paid upon vacation of the plat. If he finds that lands have been sold or developed, he shall require the installation of all required improvements from the nearest improved street or from the nearest utility main

- B) or line of adequate capacity to such point as shall be necessary to serve the land so sold or developed, he may release the assurance as to unsold and undeveloped land beyond that point, provided, however, that the existing drainage facilities are adequate to protect existing development.
- C. No building permit shall be issued for the construction of any improvement on the land for which acceptable assurance would otherwise be required while such release is in effect. (Ord. 76-178; 1968 Code § 13-22.1F)

15-3-1105: RENEWAL AND UPDATE OF ACCEPTABLE ASSURANCE:

- A. If assurances filed with the City expire, no building permits for building site shall be issued. It shall be the responsibility of the subdivider to keep current all assurances filed with the City. The City shall have the right at any time to increase or decrease the amount of assurance in accordance with the current estimates of public improvements or utilities, it being the intent of this provision that the subdivider shall pay the entire cost of all improvements, and the subdivider shall in no way limit his liability therefor by filing assurances based upon estimates. (Ord. 76-178; Ord. 81-245; 1968 Code § 13-22.1G)
- B. Except as herein provided, assurances for public improvements shall be released upon final inspection and acceptance by the City. If upon inspection of the public improvements deficiencies are found, then only that portion of the public improvements that are found to be acceptable shall be released from assurance. An acceptance amount of assurance as determined by the City shall be maintained to cover the cost of repair or correction. Upon completion of the repair or correction to the satisfaction of the City, the balance of the assurance shall be released. In order to obtain a release or reduction of assurance filed with the City, the request must be made in writing to the City Engineer for an inspection of the improvements covered by the assurance. (Ord. 81-245)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 12 PARK AND SCHOOL SITE DEDICATIONS

SECTION:

- 15-3-1201: Policy and Purpose
- 15-3-1202: Park Standards
- 15-3-1203: Dedications of Land for Parks
- 15-3-1204: School Standards
- 15-3-1205: Student Population Density
- 15-3-1206: School Land Dedication Requirements
- 15-3-1207: Dedication of Land Required for
Public Uses
- 15-3-1208: Applicability of Provisions
- 15-3-1209: Review of Requirements
- 15-3-1210: Replatting or Resubdividing

15-3-1201: POLICY AND PURPOSE: It is hereby declared to be the policy of the City that whenever land is proposed for residential use, the owner of the land should provide land for school needs generated by the proposed residential use, and the owner of the land should provide land or fees primarily for park needs generated by the proposed residential use and secondarily fees, if any, for physical improvements thereto. It is the purpose of this Part 12 to require the dedication of land or the payment of fees in lieu thereof or both to fulfill such needs. In the case of the dedication or conveyance and acceptance of land, the appropriate school district or the City will be required to pay their share of costs incurred in the development of the school or park site including, but not limited to, adjacent roads, drainage, sidewalks and utility extensions. The payment of these costs will be deferred until funds are appropriated and may be deferred pursuant to a recovery agreement between the land owner and the City or school district so that the costs need not be paid by the City or the school district until improvements to the land are completed and the land is put to public use. If payment of costs are deferred pursuant to a recovery agreement, ten percent (10%) of the costs shall be added to the costs for each year up to fifteen (15) years. (Ord. 78-88; Ord. 85-110; 1968 Code §§ 13-21A)

15-3-1202: PARK STANDARDS: In the interest of the health, safety and general welfare of the people of the City, the park area standards as adopted by Resolution 60-77 by the City Council on

March 22, 1977 are adopted to provide a guide to facilitate adequate provision for parks as the City develops. (Ord. 78-88; 1968 Code § 13-21B)

15-3-1203: DEDICATION OF LAND FOR PARKS:

It is hereby found and determined:

- A. That a part of the public need for parks generated by the influx of new residents should be provided for by mandatory dedication of land or fees in lieu thereof as a condition of preliminary/final or final plat approval.
- B. That it is reasonable to require the dedication of land or payment of fees-in-lieu thereof to provide the following facilities: vest pocket or mini park, neighborhood park and playground, playfield or community park - resulting in a total requirement of seven and five-tenths (7.5) acres per one thousand (1,000) persons.
- C. That the 1970 Federal census shows that, in the City, there are an average of 3.1 persons per owner-occupied dwelling and 2.2 persons per renter occupied dwelling.
- D. That the density of owner-occupied developments is usually eight (8) dwelling units per acre or less while the density of renter-occupied developments is usually greater than eight (8) dwelling units per acre.
- E. That, for purposes of determining the park land dedication requirement, where the gross residential land density is greater than eight (8) dwelling units per acre, the population averages 2.2 persons per dwelling unit and where the gross residential land density is less than or equal to eight (8) dwelling units per acre, the population averages 3.1 persons per dwelling unit.
- F. That the resulting requirements of land to be dedicated for parks and open space is 0.0165 acres (719 square feet) per dwelling unit for residential land densities in excess of eight (8) dwelling units per acre, and 0.02325 acres (1,013 square feet) per dwelling unit for residential land densities of eight (8) dwelling units per acre or less.

- G. That the City's requirements for regional parks, open spaces and special facilities should be provided from sources other than those set forth in this Part. (Ord. 78-88; 1968 Code § 13-21C)

15-3-1204: SCHOOL STANDARDS: It is hereby found and determined that minimum acreage requirements for schools, assuming ideal site topography, are as follows:

Elementary School- 790 Students-10 acres 0.0127 Site Acres/Student
 Junior High School-1000 Students-20 acres 0.02 Site Acres/Student
 Senior High School-2000 Students-45 acres 0.0225 Site Acres/Student
 (Ord. 78-88; 1968 Code § 13-21D)

15-3-1205: STUDENT POPULATION DENSITY: It is hereby found and determined:

- A. That the survey area for the school population study of June, 1973, is typical of the developing areas in the City, to wit:

STUDENTS PER DWELLING UNIT

		<u>Students/du</u>
Elementary		
5,499 S.F. and duplex at 4,032 students =	0.7332	
2,651 multi-family at 469 students =	.1769	
Junior High School		
5,499 S.F. and duplex at 1,691 students =	0.3075	
2,651 M.F. at 135 students =	0.0509	
Senior High School		
5,499 S.F. and duplex at 1,139 students =	0.2071	
2,651 M.F. at 193 students =	0.0728	
Required Acres Per Dwelling Unit		
Low Density		
Elementary	$0.7332 \times 0.0127 =$.0093
Jr. High School	$0.3075 \times .02 =$.0061
Sr. High School	$0.2071 \times .0225 =$.0046
		.0200 acres/du
High Density		
Elementary	$0.1769 \times 0.0127 =$.0022
Jr. High School	$.0509 \times 0.02 =$.0010
Sr. High School	$0.07 \times 0.0225 =$.0016
		.0048 acres/du

- B. That the survey data is a reasonable and valid basis for determining a school land dedication requirement. (Ord. 78-88; 1968 Code § 13-21E)

15-3-1206: SCHOOL LAND DEDICATION

REQUIREMENTS: Based upon the foregoing school standards and school population density data, it is hereby found and determined that for residential land having a density greater than eight (8) dwelling units per acre, there is a requirement for 0.0048 acres (209 square feet) per dwelling unit and for residential land having a density of eight (8) dwelling units per acre or less there is a requirement of 0.019 acres (871 square feet) per dwelling unit. (Ord. 79-232; 1968 Code § 13-21F)

15-3-1207: DEDICATION OF LAND REQUIRED

FOR PUBLIC USES: As a condition of preliminary/final or final plat approval, every subdivider shall dedicate land areas for schools and parks or shall agree to pay a sum of money sufficient to provide for such needs at time of building permit issuance. (Ord. 78-88; 1968 Code § 13-21G)

A. Parks.

1. Amount of Land to be Dedicated. The amount of land required to be dedicated by the subdivider for parks shall be 0.0165 acres (719 square feet) per dwelling unit for residential land densities in excess of eight (8) dwelling units per acre, and 0.02325 acres (1,013 square feet) per dwelling unit for residential land densities of eight (8) dwelling units per acre or less. Any land to be dedicated as a requirement of this Part 12 shall be reasonably adaptable for use as a vest pocket park, neighborhood park and playground, playfield or community park. Factors used in evaluating the adequacy of proposed park areas shall include size and shape, topography, geology, flora and fauna, access, and location.

2. Credit for Private Open Space. Where private land for park or open space purposes is provided and such land is to be privately owned and maintained by or for the future residents of the development, such areas may be credited in whole or in part against the requirement of dedication for park purposes up to a maximum of one hundred percent (100%) of the dedication requirement, provided the City Council finds it is in the public interest to do so and that the following standards are met: (Ord. 79-232; 1968 Code § 13-21G)

a. That building and parking setbacks required to be maintained under the zoning and building regulations, shall not be included in the computation of such private land;

b. That the private operation and maintenance of the land is adequately provided

A,2) for by written agreement with the City;

c. That the use of the private land is restricted for park or open space purposes, or both, by recorded covenants which run with the land in favor of the future residents of property within the development, and which cannot be defeated or eliminated without the consent of the City Council;

d. That the proposed private land is reasonably adaptable for use for park and open space purposes, taking into consideration such factors as size, shape, topography, geology, access and location;

e. That the improvements proposed for the private land are approved by the City Council; (Ord. 78-88; 1968 Code § 13-21G)

f. That the amount of credit allowed shall depend upon the extent to which the private land serves the overall park and recreation needs of the future residents of the development. (Ord. 79-232; 1968 Code § 13-21G)

3. Multi-Use Trails. For purposes of park land dedication requirements or fees to be paid in lieu thereof under this Part 12 in those land developments where proposed trails are located, land for trails may be substituted in lieu of land for parks in whole or in part. No fees in lieu of trail land dedication will be accepted unless there is an acceptable alternate route shown on the Multi-Use Trail Master Plan. (Ord. 81-110)

B. School Sites.

1. Amount of Land to be Dedicated. The amount of land required to be dedicated for school sites shall be 0.0048 acres (209 square feet) per dwelling unit where the residential land density is greater than eight (8) dwelling units per acre, and 0.02 acres (971 square feet) per dwelling unit where the residential land density is eight (8) dwelling units per acre or less. This is a minimum requirement for land to be dedicated. The site shall meet the following criteria:

a. Adequate access.

b. Proper general configuration.

c. Suitable physical characteristics, such as drainage, vegetation and soil type.

C. Fees in Lieu of Land.

1. Choice of Land or Fee:

a. Procedure. The procedure for determining whether the subdivider is to dedicate land, pay a fee, or both, shall be as follows:

(1) Subdivider. At the time of filing a preliminary or preliminary/final plat for approval, the subdivider of the property shall, as part of such filing, indicate whether he desires to dedicate land for park and school site purposes, or whether he desires to pay a fee in lieu thereof. If he desires to dedicate land for this purpose, he shall designate the area thereof on the plat as submitted. The subdivider and City and appropriate school district may at any time by separate agreement establish other methods for dedication if in accord with the standards set forth herein and approved by their respective elected officials.

(2) Review. The Park and Recreation Department and appropriate school district shall submit their recommendations to the Planning Department within ten (10) days of notification that a plat has been filed.

(3) Action of City. At the time of plat map approval, the City Council shall determine as a part of such approval, whether to require a dedication of land, payment of a fee in lieu thereof or a combination of both. (Ord. 78-88; 1968 Code § 13-21G)

(4) Prerequisites for Approval of Preliminary/Final or Final Plat. Dedication when required shall be accomplished by transfer of deed or dedication by plat. This must be done prior to approval of preliminary/final or final plat. Where the subdivider cannot convey clear title at the time of final plat approval, the City Council may, in its discretion, accept a contract to convey the land at a later time certain accompanied by an acceptable assurance guaranteeing payment of a sum equal to the value of the land. Where the site is under the control of a third party, a similar three (3) party arrangement may be made. Covenants for private park or open space shall be submitted to the City prior to approval of

- C,1) the final plat and shall be recorded contemporaneously with the final plat. (Ord. 79-232; 1968 Code § 13-21G)

Where fees are required such fees shall be paid on a dwelling unit basis at the time of building permit issuance, and such fees shall be in the amount set as of the date of building permit issuance. School fees shall be made payable to the appropriate school district, and park fees shall be made payable to the City.

2. Amount of Fee in Lieu of Land Dedication. The fee in lieu of land dedication shall be established each year as of January 1 by the City Council upon recommendation from the School/Park Fee Advisory Committee to be composed of seven (7) members appointed by the City Council for three (3) year terms. The Director of Parks and Recreation shall be secretary of the Committee without vote. City Council shall appoint six (6) members as follows: one member of the Committee shall be a certified land appraiser doing business in the City; one member shall be a land developer experienced in subdivision and improvement of land; one member shall be a person actively engaged in the construction and sale of housing; one member shall be a member of the Park and Recreation Advisory Board; and one member shall be a person actively engaged in the design and development of recreational parks, and one member shall be a citizen at large. The school districts within or partly within the City shall appoint one member who shall be a representative of school board/administrator. The Committee shall advise the City Council for the school and park fees in lieu of dedication for residential development eight (8) units per acre or less and for residential development of more than eight (8) units per acre or less and for residential development of more than eight (8) units per acre. Such fees shall approximate on a per dwelling unit basis the cost to acquire land sufficient to meet school needs and to acquire and develop land sufficient to meet the park needs. (Ord. 78-88; Ord. 82-49)

D. Additional Information Required on All Plats:

1. At the time of filing a preliminary or preliminary/final plat for approval, the subdivider shall, as a part of such filing, designate the general area or areas he proposes to set aside for school sites and for park and

- D,1) open space use, and shall indicate the number of acres proposed for such uses, and the number and type of proposed dwelling units for each lot in the filing.

2. The final plat shall record the manner of compliance with the provisions of this Part 12 for both school and park and open space purposes. As appropriate, the plat shall record acreage dedicated. Dedication or conveyance and acceptance of the land shall state that land is to be used for both school and park purposes.

3. If, after the recording of a final plat, a subdivider wishes to increase the number of dwelling units on any lot to a number greater than that designated on the plat, and where density may be increased without a replat, the owner must file a petition for increase of density with the Minor Land Subdivision Committee showing the location and number of dwelling units proposed. Such petition shall be submitted to the School Board, Park Board and City Public Works and Utilities Departments for an impact review. Recommendations based on such review shall be forwarded to the Minor Land Subdivision Committee within forty (40) days. Upon the dedication of additional land or payment of a fee determined in accordance with Section 15-3-1203 above, or both, such petition may be approved by the City Council, after review by the Minor Land Subdivision Committee, if the Council determines that such increase in density does not violate any requirements of the zoning and subdivision regulations and that existing or planned City facilities are adequate to accommodate the increase in density. If the subdivider develops a tract at a lower density or where it is changed to a use or zone where no dedication is necessary, no return of land shall be made. (Ord. 78-88; Ord. 85-110; 1968 Code § 13-21G)

E. Disposal of Surplus School Land:

1. In the event any school district which has received school site land as a result of the provisions of this Part 12 determines that the school site will not be used for school purposes, the following disposal procedure shall be followed:

a. That portion of the school site adjacent to the park site that was to have been used as a joint site for recreational activities by both the City and School District or that portion of the

- E1) school site that can be used for recreational activities or any portion thereof that can be used for recreational activities, as determined by the Director of Parks and Recreation shall be offered to the City for park or open space purposes, and if the City accepts such offer the City shall reimburse the school district in an amount equal to the amount of land times the current school fee in effect at the time of the school site disposal¹ plus any actual costs incurred by the school district in the development of the portion of the school site acquired including but not limited to adjacent roads, drainage, or sidewalks. Ten percent (10%) of the actual costs shall be added to the actual costs for each year up to fifteen (15) years.

b. If the Director of Park and Recreation determines that the City does not desire the recreational portion of the school site or only desires a portion of the recreational portion of the school site, then the school district shall offer all of the remaining surplus school site to the person who dedicated such real property for school purposes, and if the person who dedicated the property desires to acquire the land from the school district, that person shall trade, if possible, for other land the school district desires or that person shall pay the current school fee in effect at the time of the school site abandonment plus any actual costs incurred by the school district in the development of the site including but not limited to adjacent roads, drainage, or sidewalks. Ten percent (10%) of the actual costs shall be added to the actual costs for each year up to fifteen (15) years.

c. If there is any school site land left over after the City and original dedicating person have made their decisions regarding acquisition of such site, the school district may offer the land for sale subject to applicable state statutes, rules and regulations.

d. Anyone other than the City acquiring surplus school site property shall be required to meet all the terms and conditions of Chapters 14 and 15 of the City Code pertaining to zoning and subdivision in seeking to develop such land. (Ord. 85-110)

15-3-1208: **APPLICABILITY OF PROVISIONS:**

This Part 12 shall apply to all plats which have not satisfied both of the following conditions prior to August 28, 1974.

- A. The preliminary or preliminary/final plat must have been approved by the City Council or the Board of County Commissioners of the County of El Paso; and
- B. The final or preliminary/final plat must have satisfied all prerequisites of plat approval imposed by this Chapter and all provisions and stipulations imposed by the City Council or all prerequisites of plat approval imposed by the

(See following page for Section 15-3-1208 continued)

1. See Section 15-3-1207C,2.

- B) Board of County Commissioners of the County of El Paso. (Ord. 79-59; 1968 Code § 13-21H)

15-3-1209: REVIEW OF REQUIREMENTS: All requirements of this Part 12 and the data upon which they are based shall be reviewed annually by the Park and Recreation Advisory Board and the Planning Commission and such bodies shall make a written report and recommendation to the City Council prior to November 15 of each year as to the need for revision. (Ord. 79-232; 1968 Code § 13-21I)

15-3-1210: REPLATTING OR RESUBDIVIDING:
The following considerations will be taken in account in any replat or resubdivision of land platted prior to September 6, 1973, for which land fees were paid or land was dedicated.

- A. If such replat or resubdivision is to correct engineering errors (legal descriptions) such replat will be exempt from this Part 12.
- B. If park and school fees have been paid or land dedicated, or both, the land replatted or resubdivided shall be exempt from the provisions of this Part 12 unless as a result of such replat or resubdivision residential density is increased. If residential density is increased the owner shall pay the fees or dedicate land, or both, in those amounts set forth in this Part 12 as applied only to additional numbers of residential units increasing the density. If residential density is decreased, the provisions of this Part 12 shall not apply. (Ord. 78-88; 1968 Code § 13-21J)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 13 WAIVERS

SECTION:

15-3-1301: Conditions for Granting Waiver
 15-3-1302: Waiver Procedure
 15-3-1303: Distribution
 15-3-1304: Action on Requested Waiver
 15-3-1305: Waiver of Other Provisions

15-3-1301: CONDITIONS FOR GRANTING WAIVER: The Planning Commission shall not recommend approval nor shall the City Council authorize a waiver from the regulations contained in this Article except in cases where the Commission and the City Council find:

- A. The waiver will not be detrimental to the public good or to the surrounding properties,
- B. There are exceptional topographic, soil or other surface conditions,
- C. There are unusual conditions which are not ordinarily found in the area,
- D. The strict application of the requirements of this Article will constitute a substantial hardship to the subdivider.

Any waiver granted shall be consistent with the intent and the purpose of this Article, the City's Comprehensive Plan and State law. (Ord. 4011; 1968 Code § 13-23A)

15-3-1302: WAIVER PROCEDURE:

- A. **Submission:** Whenever the subdivider desires to request a waiver from any of the requirements of this Article, the subdivider shall submit a letter to the Planning Department. Said letter shall set forth in detail the requested waiver(s) and shall also set forth in detail the reasons for requesting the waiver(s).

- B. **Submission Deadline.** The subdivider shall cause the waiver to be submitted on or before the deadline dates posted at the City Planning Department. (Ord. 4011; Ord. 81-102; 1968 Code § 13-23B)

15-3-1303: DISTRIBUTION: The Planning Department shall refer the requested waiver to the department under whose jurisdiction the applicable regulations fall, and such department shall transmit its written recommendation to the Planning Commission. (Ord. 4011; 1968 Code § 13-23D)

15-3-1304: ACTION ON REQUESTED WAIVER:

- A. **Planning Commission Action.** Following a review of the recommendations from the appropriate departments, the Planning Commission shall take action on the requested waiver.

1. **Recommendation of Approval.** If the Planning Commission determines that the waiver request satisfies the conditions set forth in Section 15-3-1301 and warrants approval, it may recommend that the City Council grant a waiver from the regular provisions of this Article. If the Planning Commission does recommend approval of the waiver request, said waiver shall be forwarded to the City Council as a report item at its next regularly scheduled Council meeting for which the deadline date has not passed. Any person or persons may appeal the recommendation of the Planning Commission to the City Council under the procedures as outlined in this Part 13.

2. **Recommendation of Disapproval.** If the City Planning Commission disapproves the waiver request, the request shall not be referred to the

A,2) City Council for consideration unless an appeal of the Commission's decision is made. Disapproved waiver requests shall be considered by the City Council only when the subdivider has filed a written appeal of the Planning Commission's action within ten (10) days of that action. Whenever a waiver request has been denied by the Planning Commission and has not been appealed to the City Council within the ten (10) day time limitation, then the Commission shall not reconsider said waiver for a period of six (6) months from the final action of disapproval, provided, however, that if in the opinion of the Planning Director, the waiver request has been modified so as to overcome the stated objection, then the Commission may reconsider said waiver within the six (6) month time limitation period.

3. Notification. The subdivider shall be notified of the action taken by the Commission by letter within seven (7) days of such action.

B. City Council Action.

1. Approval. If the Planning Commission recommends approval of the waiver request and no appeal has been received, then the City Council shall consider said waiver as a report item at its next regularly scheduled Council meeting for which the deadline date has not passed. Acceptance of the waiver as a report item by the City Council shall be deemed as approval of the waiver request by the City Council.

2. Disapproval, Tabling or Referral. If the City Council finds in reviewing the waiver request that the waiver request does not meet the conditions set forth in Section 15-3-1301, the City Council shall disapprove, table for further study, or refer said waiver request back to the Planning Commission for further study. Whenever a waiver request has been denied by the City Council, the Council shall not consider said waiver request for a period of six (6) months from the final action of disapproval; provided, however, that if in the opinion of the Planning Director that the waiver request has been modified so as to overcome the stated objections, then the City Council may reconsider said waiver within the six (6) month time limitation.

B) 3. Notification. The City Manager shall notify the subdivider by letter of the action taken by the City Council within seven (7) days of such action. (Ord. 4011; 1968 Code § 13-23D)

15-3-1305: WAIVER OF OTHER PROVISIONS:

A. Individual Action. Any person who desires to remove or modify any condition or other detail or item which is not required by this Chapter but which has been made a part of such final or preliminary/final plat by action of the City Council shall submit in writing the reasons for such removal or modification to the Planning Department with a submission fee of seventy five dollars (\$75.00).

B. Action by the Planning Department. The Planning Department shall in accord with its applicable deadlines refer the submission to the Planning Commission for a public hearing. The Planning Department shall circulate the request to all applicable City departments for comment.

C. Action by the Planning Commission. The Planning Commission at its public hearing shall take action on the submission by approving, disapproving or approving with modification. Any person desiring to appeal the action of the Planning Commission shall make such appeal in writing specifying the grounds therefor to the City Clerk within ten (10) days after the action taken by the Planning Commission. If no appeal is received and the Planning Commission has approved the submission, then it shall be forwarded to the City Council for consideration at the next regularly scheduled Council meeting for which the deadline date has not passed.

D. Action by the City Council. The City Council shall consider the submission as forwarded to it and shall take appropriate action. If forwarded on appeal, the Council shall hold a public hearing. After consideration, the Council shall approve, disapprove or modify the submission, or remand the matter back to the Planning Commission for further consideration. Any action by the City Council other than remand back to the Planning Commission shall not be reconsidered by the Council for a period of at least six (6) months. (Ord. 78-16; 1968 Code § 13-23.1)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 14 BUILDING PERMITS

SECTION:

- 15-3-1401: Compliance Required
- 15-3-1402: Issuance to Unplatted Lands
- 15-3-1403: Issuance to Previously Platted Lands
- 15-3-1404: Issuance Prior to Platting
- 15-3-1505: Action by Minor Land Subdivision Committee

15-3-1401: COMPLIANCE REQUIRED: No building permits shall be issued for the construction or reconstruction of structures upon any land or the addition to any building or structure situated on any land, unless such land has been subdivided and platted in accordance with the procedures set forth in this Chapter. Exceptions to this rule are set forth in this Part 14. (Ord. 78-65; 1968 Code § 13-25)

15-3-1402: ISSUANCE TO UNPLATTED LANDS:

It is the purpose of this Section to alleviate platting costs to land which was developed and within the City on January 1, 1985 or subsequently annexed to the City but unplatted because platting was not required at the time that the land was developed or the land is owned by the City of Colorado Springs and used for park and recreation purposes. Building permits shall be issued without requiring platting and without the approval of the Minor Land Subdivision Committee only in the following particular cases:

- A. When interior remodeling exclusively is to be undertaken in compliance with the provisions of this Code, and a plot plan showing all required data pertinent to the specific building permit request has been submitted to the Regional Building Department;
- B. When a structural addition, attached or otherwise, is to be constructed in compliance with the provisions of this Code and the following conditions exist:
 - 1. The addition constitutes no change in land use; and

- B) 2. The addition will not require street extension; and

3. That a detailed dimensionalized plot plan is submitted with the specific building request to the Regional Building Department showing the existing site improvements and the proposed improvements in relation to the site and to adjacent properties; and

4. The proposed structural addition will not intrude upon setback lines determined by the City Engineer to accommodate any proposed right of way indicated on the Major Traffic Thoroughfare Plan; and

5. Drainage fees are paid if the proposed structural addition results in a floor area which exceeds by fifty percent (50%) the area of the structure existing on July 18, 1975, or the date of annexation if annexation is after July 18, 1975.

- C. When City utility services are extended to existing structures in use within the City limits and all of the following criteria are met:

1. The existing structure has been using well water, gas or septic tank services in conformance with statutes, ordinances and regulations in existence at the time of those facilities installations;

2. No building permit will be required to install fixtures to use the City utility services provided;

3. Adequate utility services are available to provide the extension requested;

4. The landowner requests such extension; and

5. The applicable utility service fees are paid by the land owner.

- D. When improvements including but not limited to restrooms, picnic or other shelters, athletic fields or concession facilities are to be constructed on public park lands, and all the following conditions exist:

- D) 1. The structure constitutes no change in the land use as a park; and
2. The structure will not require a street extension; and
3. A detailed dimensionalized plot plan is submitted with the specific building request to the Regional Building Department showing the existing site improvements and the proposed improvements in relation to the site and to the adjacent properties; and
4. The proposed structure is of benefit to the public in general. (Ord. 78-65; Ord. 85-237; Ord. 86-123; 1968 Code § 13-25A)

15-3-1403: ISSUANCE TO PREVIOUSLY PLATTED LANDS:

This Section applies only to land which has been previously platted into lots and/or blocks, and it is the purpose of this Section to alleviate platting costs in older subdivisions. It is limited to owners who wish to use more than one whole platted lot for one development and to owners of certain small parcels of land who have purchased a portion or portions of previously platted lots and/or blocks which have been divided and sold by metes and bounds descriptions. It is not the purpose of this Section to promote the subdivision or resubdivision of lots without replatting.

- A. Replatting shall not be required prior to the issuance of a building permit if the following criteria are met:
1. The total acreage of the platted lot, or lots, of which this parcel is a part, does not exceed two (2) acres; and
 2. The land for which a waiver of replatting is requested under this Section does not include any land for which the owner obtained title pursuant to vacation of a public right of way.
 3. No dedication of right of way is required; and
 4. No major public improvements such as drainage structures are required; and
 5. Approved direct access to an acceptable, existing public street exists; and
 6. The applicant agrees to pay applicable fees which would normally be paid prior to recording of the replat; and

- A) 7. The applicant agrees to dedicate easements required for utilities and access; and
8. The parcel of real property is in conformance with all requirements of the zoning regulations and no variances to lot size or width are required; or the existing ownership configuration occurred prior to January 1, 1952; or the existing ownership configuration occurred prior to annexation to the City; and
9. No structures exist across external property lines of the ownership configuration; and
10. No property boundary adjustments, combination of lots for zoning purposes, or waiver of replatting has previously been granted for any of the property involved; and
11. The request has been submitted and reviewed in conformance with the procedures set forth below, and no department objects to the request.

B. Procedure.

1. Materials and Information Required. The applicant shall submit to the Planning Department a completed application form accompanied by:

- a. Recording fee; and
- b. Proof of ownership of the parcel involved; and
- c. Proof of the date of the creation of the legal description of the parcel under consideration;
- d. The date of annexation of the parcel;
- e. Copy of the recorded plat in order to verify rights of way;
- f. The required number of copies of a site plan, drawn to scale, which includes all of the following:
 1. All of each platted lot of which the parcel is a part; and
 2. The boundaries and dimensions of the ownership configuration; and
 3. Location, dimensions and setbacks of all existing structures; and

- B) 4. Location, names and rights of way of all adjacent streets and alleys; and
5. Show all access points on property adjacent to or across the street from the applicant's property.
6. A bar scale and north arrow; and
7. The legal description of the parcel; and
8. The book and page number of the recorded plat of which this parcel is a part; and
9. The owner's name, address and phone number; and

(See following page for Section 15-3-1403 continued)

- B,1,f) 10. Approval/denial statement. (See 2d below.)

2. Approval/Denial. After review conducted by the City departments, involved utilities and involved cable television system or broadband telecommunications networks, the Planning Department will notify the applicant and the Regional Building Department of approval or denial of the request.

a. Approval of the request may be subject to fulfillment of certain provisions related to other sections of this Chapter, such as arrangements for public improvements, easements, easement vacations, fees, etc. The applicant will have ninety (90) days from the date of completion of the review in order to satisfy these provisions. If the applicant fails to satisfy the requirements in this time period, the application will be considered withdrawn.

b. Denial of the request shall specify the reason for denial and may be appealed to the City Council, except that when denial is due to failure to qualify under subsection A above, the appeal must be submitted first to the Planning Commission accompanied by a properly-executed request for waiver of platting requirements.

c. The approval of the request for waiver of replatting by the Director of Planning shall constitute the consolidation of land involved into one lot for purposes of City zoning ordinance, one lot for purposes of the City subdivision code and shall constitute one lot for purposes of all other applicable provisions of the City Code,

- B,2) including applicable codes, rules and regulations adopted pursuant to the City Code.

d. Requests that are approved under this Section shall include the following language:

Under the provisions of Section 15-3-1403 of the Code of the City of Colorado Springs 1980, as amended, the following legal description is henceforth considered as one lot for purposes of the Zoning Ordinance (Chapter 14 of the City Code), one lot for the applicable provisions of the subdivision code, and one lot for any other applicable provisions of the City Code or including applicable codes, rules and regulations adopted pursuant to the City Code.

(City of Colorado Springs Planning Director)

_____, date.

(Ord. 82-218; Ord. 85-275)

15-3-1404: **ISSUANCE PRIOR TO PLATTING:**

- A. Issuance for Single-Family Construction: The Minor Land Subdivision Committee at its regularly scheduled meeting may authorize the issuance of a building permit prior to platting in accordance with the following:

1. Material and Information Required. An application form, properly completed, shall be submitted to the Planning Department on or before the due date for preparation of the agenda for the next scheduled Minor Land Subdivision Committee meeting. Said application shall be accompanied by the following:

Fifteen (15) copies of a detailed site plan, drawn to scale, showing all existing and proposed

- A,1) improvements (public and private); see Section 15-3-502.

2. Minor Land Subdivision Committee Action: The Minor Land Subdivision Committee shall review the Planning Department's report. If the Minor Land Subdivision Committee determines the request is in conformance with all appropriate City Codes, the Minor Land Subdivision Committee may authorize the issuance of a building permit prior to platting subject to the following:

a. The applicant shall provide to the Public Works Department an acceptance assurance to cover the cost of platting as determined by the Public Works Department.

b. The applicant shall provide to the Public Works Department acceptable assurance for any required public improvements and shall provide cash fees as required by this Chapter.

- B. Issuance for Development Other Than Single-Family Construction: The Director of Public Works and the Director of Planning may authorize the issuance of a building permit prior to platting subject to the following:

1. A complete form indicating the applicant's intent to plat plus acceptable assurances to cover the cost of platting, such cost to be determined by the Department of Public Works. A complete plat submittal shall be made within forty five (45) days of the issuance of the building permit.

2. The applicant shall provide two (2) copies of a detailed site plan, drawn to scale, showing all existing and proposed improvements (public and private).¹

3. Conformance to all applicable City codes.

4. Payment of all required fees. (Ord. 81-278)

15-3-1405: ACTION BY MINOR LAND SUBDIVISION COMMITTEE: The Minor Land Subdivision Committee, at its regularly scheduled meeting, may elect to hear a building permit request that has not been previously placed on the agenda if the following conditions are met:

- A. A request in writing has been submitted to the Planning Department by eleven o'clock (11:00) A.M. of the day of the meeting.
- B. That the written request explains why the building permit request was not submitted in the normal manner, and sets forth the hardship justification as to why the building permit should be authorized prior to completion of platting.
- C. The final plat request for the land to be used in the requested building permit has been previously approved by the Minor Land Subdivision Committee.
- D. No less than three (3) members of the Minor Land Subdivision Committee have voted in favor of hearing the item.
- E. The building plans are complete and have been submitted to the Regional Building Department.

Should the Minor Land Subdivision Committee elect to hear the request under this Section and approve the issuance of a building permit, the issuance of such building permit is subject to review by the City administration and all the requirements set forth in Section 15-3-1404 above. (Ord. 78-65; 1968 Code § 13-25D)

1. See Section 15-3-502 of this Chapter.

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 3 SUBDIVISION REGULATIONS

PART 15 GRADING PLANS

SECTION:

- 15-3-1501: Purpose
- 15-3-1502: Definitions
- 15-3-1503: Grading Plans
- 15-3-1504: Public Nuisance Declared
- 15-3-1505: Commencement of Correction Proceedings
- 15-3-1506: Notice and Order to Correct
- 15-3-1507: Service of Notice and Order
- 15-3-1508: Record Notice and Order, Certificates
- 15-3-1509: Standards for Correction
- 15-3-1510: Form of Appeal
- 15-3-1511: Effect of Failure to Appeal
- 15-3-1512: Staying Order Under Appeal
- 15-3-1513: Processing Appeal
- 15-3-1514: Scope of Hearing on Appeal
- 15-3-1515: Procedure for Hearing Appeals
- 15-3-1516: Conduct of Hearing
- 15-3-1517: Method and Form of Decision
- 15-3-1518: Enforcement of Order
- 15-3-1519: Failure to Obey
- 15-3-1520: Report Account of Expenses
- 15-3-1521: Protests and Objections
- 15-3-1522: Hearing on Report, Protest
- 15-3-1523: Personal Obligation or Special Assessment
- 15-3-1524: Contest Assessment
- 15-3-1525: Lien of Assessment
- 15-3-1526: Report to Assessor and Tax Collector
- 15-3-1527: Collection of Assessment
- 15-3-1528: Repayment of Correction Fund
- 15-3-1529: Responsibility and Liability

15-3-1501: **PURPOSE:** The purpose of this Part is to safeguard life, limb, property and the public welfare from grading on private property. It is not the purpose of this Part that the City regulate grading, unless specifically required elsewhere in this Code¹ by approving grading plans, but rather, to require persons who engage in grading or who have grading undertaken to accomplish the grading in a safe manner so that grading does not result in adverse effects to persons or property, or both. (Ord. 82-56)

15-3-1502: DEFINITIONS:

DANGEROUS GRADING: Any fill, excavation or grading that as a result of natural or unnatural conditions has or will result in damage to life, limb or property.

DIRECTOR OF PUBLIC WORKS: The Director or his designated representative.

EXCAVATION: The mechanical removal of earth material.

FILL: A deposit of earth material by mechanical means.

GRADING: Any excavating or filling or combination thereof. (Ord. 82-56)

15-3-1503: GRADING PLANS: No person shall undertake any grading on private property that will result in:

- A. Excavation or fill of seven hundred fifty (750) cubic yards, or
- B. The grading of a site with platted acreage of two (2) or more acres, or
- C. Grading on any property with a natural slope in excess of eight percent (8%), or
- D. Any combination of the above three, or
- E. Any grading or other disturbance of land in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code,

unless such person has obtained from a registered professional engineer or architect licensed by the State of Colorado a grading plan done in such a manner so as to protect other property from the adverse effects of the grading. Such grading plan shall bear the seal of a registered professional engineer, or the seal or signature of an architect licensed by the State of

1. See Section 14-3-2906 (Grading Plans in Hillside Overlay Zone) and Section 15-3-502C2 (Grading plans may be required to be submitted with preliminary plats in hillside areas where slopes exceed 10%).

Colorado and shall include a cost estimate for the grading to be undertaken. Specifically, and without limitation or inclusion, the grading plan should include the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, and should be of sufficient clarity to indicate the nature and extent of the work proposed and shall provide that such work will not become a hazard to life and limb, endanger property, or adversely affect the safety, use or stability of a public way, drainage channel or other property. Such grading plan shall be filed with the Director of Public Works and a receipt shall be given so long as the grading plan bears the seal of a registered professional engineer or seal or signature of an architect licensed by the State of Colorado. The receipt shall constitute a grading permit; provided that such receipt shall not constitute a grading permit for any area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code. (Ord. 82-56; Ord. 83-229)

15-3-1504: PUBLIC NUISANCE DECLARED: All grading which is determined, after inspection by the Director of Public Works, to be dangerous as defined in Section 15-3-1502 or any grading or other disturbance of land in areas zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code is hereby declared to be a public nuisance and shall be abated by correction in accordance with a grading plan obtained from a registered professional engineer licensed by the State of Colorado. (Ord. 82-56; Ord. 83-229)

15-3-1505: COMMENCEMENT OF CORRECTION PROCEEDINGS: Whenever the Director of Public Works has inspected or caused to be inspected any grading and has found and determined that such grading is dangerous grading, he shall cause corrective proceedings to be undertaken. (Ord. 82-56)

15-3-1506: NOTICE AND ORDER TO CORRECT: The Director of Public Works shall issue a notice and order directed to the record owner of the property on which the dangerous grading has or will occur and may issue a notice and order directed to the record owner of the property where grading or other disturbance of land in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code has occurred or will occur. The notice and order shall contain:

- A. The street address and a description sufficient for identification of the premises upon which the grading is located.
- B. A statement that the Director of Public Works has found the grading to be dangerous or has found grading or other disturbance of land in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code with a brief and concise description of the conditions found to render the grading dangerous under the provisions of Section 15-3-1502, or the conditions that constitute grading or other disturbance of land in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code.
- C. A statement of the action required to be taken as determined by the Director of Public Works.
- D. Statements advising that if any required corrective measures are not commenced within the time specified, the Director of Public Works may proceed to cause the corrective measures to be undertaken and charge the cost thereof against the property or its owner.
- E. Statements Advising:
 1. That any person having any record title or legal interest in the property may appeal from the notice and order or any action of the Director of Public Works to the City Council, provided the appeal is made in writing as provided herein, and filed with the Director of Public Works within ten (10) days from the date of service of such notice and order; and
 2. That failure to appeal will constitute a waiver of all right to a hearing and determination of the matter. (Ord. 82-56; Ord. 83-229)

15-3-1507: SERVICE OF NOTICE AND ORDER:

- A. To Whom Made: Notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property; and one copy thereof shall be served on each of the following if known, to the Director of Public Works or disclosed from official public records:
 1. The holder of any mortgage or deed of trust or other lien or encumbrance of record; and

- A) 2. The owner or holder of any lease of record; and
3. The holder of any other estate or legal interest of record in or to the real property.

Failure of the Director of Public Works to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provision of this section.

- B. Method of Service: Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the assessment roll of the County or is known to the Director of Public Works. If no address of any such person so appears or is not known to the Director of Public Works, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the real property involved in the proceedings. Failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this Section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- C. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Director of Public Works. (Ord. 82-56)

15-3-1508: RECORD NOTICE AND ORDER, CERTIFICATES: Upon initiation of the service of the notice and order, the Director of Public Works shall file in the office of the County Clerk and Recorder of El Paso County a certificate describing the property and certifying:

- A. That the property is in a dangerous grading condition, or the property has been graded or

- A) other disturbance of land has occurred in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code, which grading or other disturbance of the land is not in conformity with this Part 29, and

- B. That the owner is being so notified.

Whenever the Director of Public Works' order has been reversed on appeal, or the corrections ordered shall thereafter have been completed, the Director of Public Works shall file a new certificate with the County Clerk and Recorder certifying that the order has been rescinded or that all required corrections have been made so that there is no longer a dangerous grading condition or there is conformity with the requirements of the Hillside Overlay zone, Part 29 of Article 3 of Chapter 14 of the City Code. (Ord. 82-56; Ord. 83-229)

15-3-1509: STANDARDS FOR CORRECTION:

Any grading declared dangerous grading under this Article; or any grading or other disturbance of land in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code shall be corrected in accordance with a grading plan obtained from a registered professional engineer or from an architect licensed by the State of Colorado, the grading plan on file with the Director of Public Works, grading plan or a corrected grading plan obtained from a registered professional engineer or from an architect licensed by the State of Colorado and in addition, in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code, all requirements of that Part shall be met. (Ord. 82-56; Ord. 83-229)

15-3-1510: FORM OF APPEAL: Any person served may appeal from any notice and order of any action of the Director of Public Works by filing at the office of the Director of Public Works, within ten (10) days after the date of service of such order a written appeal containing:

- A. A caption reading: "Appeal of _____" giving the names of all appellants participating in the appeal.
- B. A brief statement setting forth the legal interest of each of the appellants in the land involved in the notice and order.
- C. A brief statement, in ordinary and concise language, of the specific order or action

- C) protested, together with any material facts claimed to support the contentions of the appellant.
- D. A brief statement, in ordinary and concise language, of the relief sought and the reasons why it is claimed the protested order should be reversed, modified, or otherwise set aside.
- E. The signatures of all parties named as appellants and their official mailing addresses.
- F. Verification of at least one appellant as to the truth of the matter stated in the appeal. (Ord. 82-56)

15-3-1511: EFFECT OF FAILURE TO APPEAL:

The failure of any person to file an appeal in accordance with the provisions of Section 15-3-1510 shall constitute a waiver of his right to a hearing and adjudication of the notice and order, or any portion thereof. (Ord. 82-56)

15-3-1512: STAYING ORDER UNDER APPEAL:

No stay during the pendency of an appeal shall be allowed unless the appellants establish to the satisfaction of the Director of Public Works that grading on the property will alleviate the dangerous grading condition or that continued grading on the property will not aggravate the dangerous grading condition being appealed; provided that in any area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code, no grading or other disturbance of land shall be allowed during the pendency of an appeal unless the appellants establish to the satisfaction of the Director of Public Works with the concurrence of the Director of Planning that grading the property will alleviate the dangerous grading condition or that grading on the property is in conformity with all the requirements of the Hillside Overlay zone, Part 29. of Article 3 of Chapter 14 of the City Code. (Ord. 82-56; Ord. 83-229)

15-3-1513: PROCESSING APPEAL: Upon receipt of any appeal filed pursuant to this Section, the Director of Public Works shall present it at the next regular meeting of the City Council. As soon as practical, after receiving the written appeal, City Council shall fix a date, time and place for the hearing of the appeal by the Council. Such date shall not be less than ten (10) days nor more than thirty

(30) days from the date the appeal was filed with the Director of Public Works. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the City Clerk either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal. (Ord. 82-56)

15-3-1514: SCOPE OF HEARING ON APPEAL:

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal. (Ord. 82-56)

15-3-1515: PROCEDURE FOR HEARING APPEALS:

- A. Records and Reports. A record of the entire proceeding shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the City Council. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the City Council, but shall in no event be greater than the cost involved.
- B. Continuances. The City Council may grant continuances for good cause shown.
- C. Oaths; Certifications. In any proceedings under this Section, the City Council, or any member thereof, has the power to administer oaths and affirmations and to certify to official acts.
- D. Reasonable Dispatch. City Council shall proceed with reasonable dispatch to conclude the matter before it. (Ord. 82-56)

15-3-1516: CONDUCT OF HEARING:

- A. Rule. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- B. Evidence.
 - 1. Oral Evidence: Oral evidence shall be taken only on oath or affirmation.

- B) 2. Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this State.

3. Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in the courts of competent jurisdiction in this State.

4. Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

- C. Rights of Parties. Each party shall have these rights among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing; and
2. To introduce documentary and physical evidence; and
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and
4. To impeach any witness regardless of which party first called them to testify; and
5. To rebut the evidence against them; and
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so. (Ord. 82-56)

15-3-1517: METHOD AND FORM OF DECISION:

- A. Hearing Before City Council: Before a contested case is heard before the City Council, no member thereof who did not hear the evidence or has not read the entire record of the proceeding shall vote or take part in the decision.
- B. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the

- B) requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him at the address set forth in the appeal by certified mail, postage prepaid, return receipt requested.

- C. Effective Date of Decision. The effective date of the decision shall be as stated therein. (Ord. 82-56)

15-3-1518: ENFORCEMENT OF ORDER: After any order of the Director of Public Works or City Council made pursuant to this Article shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor. (Ord. 82-56)

15-3-1519: FAILURE TO OBEY:

- A. If, after any order of the Director of Public Works or City Council made pursuant to this Article has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Director of Public Works may:

1. Cause such person to be prosecuted under Section 15-3-1518 above, or

2. Institute any appropriate action to abate such dangerous grading or grading or other disturbance of land in an area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code as a public nuisance.

- B. Whenever the required corrective action is not commenced within ten (10) days after any final notice and order issued under this Article becomes effective, the Director of Public Works shall cause the grading to be corrected to the extent necessary to correct the conditions which render the grading dangerous as set forth in the notice and order, or in any area zoned Hillside Overlay zone under Part 29 of Article 3 of Chapter 14 of the City Code to take such action as necessary to bring the grading or other disturbance of land in conformity with that Part. (Ord. 82-56; Ord. 83-229)

15-3-1520: REPORT ACCOUNT OF EXPENSES:
The Director of Public Works shall keep

an itemized account of the expenses incurred by the City in correction of any dangerous grading or any action taken by the City to meet the requirements of the Hillside Overlay zone, Part 29 of Article 3 of Chapter 14 of the City Code and upon completion of the correction said Director shall prepare and file with the City Clerk, a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the grading or other land disturbance is or was located, and the names and addresses of the person entitled to notice. Upon receipt of said report, the City Clerk shall fix the time, date and place for hearing said report, and any protests or objections thereto. The City Clerk shall cause notice of said hearing to be posted upon the property involved, publish once in a newspaper of general circulation in the City, and serve by certified mail, postage prepaid, addressed to the owner of the property as his name and address appears on the assessment role at the County Assessor, if such so appears, or as known to the Clerk. Such notice shall be given at least ten (10) days prior to the date set for the hearing, and shall specify the day, hour and place when Council will hear and pass upon the Director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in, or affected by the proposed charge. (Ord. 82-56; Ord. 83-229)

15-3-1521: PROTESTS AND OBJECTIONS: Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk at any time prior to the time set for hearing on the report of the Director. Each such protest or objection must contain a description of the property in which the signor thereof is interested and the grounds of such protest or objection. The City Clerk shall endorse on every such protest or objection the date it was received by him and shall present such protest or objections to the City Council at the time set for the hearing. No other protests or objections shall be considered. (Ord. 82-56)

15-3-1522: HEARING ON REPORT, PROTEST: Upon the day and hour fixed for the hearing, the City Council shall hear and pass upon the report of the Director together with any such objections or protests. The Council may make such revision, correction and modification in the report or the charges it may deem just; and when the Council is satisfied with the correctness of the charge, the report (as submitted or revised, corrected or modified)

together with the charge, shall be confirmed or rejected. The decision of the City Council and the report and the charge, and on all protests or objections shall be final and conclusive. (Ord. 82-56)

15-3-1523: PERSONAL OBLIGATION OR SPECIAL ASSESSMENT: City Council may thereupon order that such charge shall be made a personal obligation of the property owner or assess such charge against the property involved.

- A. Personal Obligation. If the City Council orders that the charge shall be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the City by use of all appropriate legal remedies.
- B. Special Assessment. If the City Council orders that the charge shall be assessed against the property, it shall confirm the assessment role, and thereafter said assessment shall constitute a special assessment against any lien upon the property, and shall be collected in the same manner as any other special assessment of the City. (Ord. 82-56)

15-3-1524: CONTEST ASSESSMENT: The validity of any assessment made under the provisions of this Article shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment role as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after entry of such judgment. (Ord. 82-56)

15-3-1525: LIEN OF ASSESSMENT:

- A. Priority. Immediately upon its being placed on the assessment role, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The liens shall be subordinate to all existing special assessment liens previously imposed upon the same property, and shall be paramount to all other liens except for State, County and Municipal with which it shall be upon a parity. The liens shall continue until the assessment and all interest due and payable thereon are paid.

- B. Interests. All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment role shall become delinquent and shall bear interest at the rate of one percent (1%) per month from and after said date. (Ord. 82-56)

15-3-1526: REPORT TO ASSESSOR AND TAX COLLECTOR: After confirmation of the report, certified copies of the assessment shall be given to the County Treasurer on or before October 15. (Ord. 82-56)

15-3-1527: COLLECTION OF ASSESSMENT: The amount of the assessment shall be collected at the same time and in the same manner as general taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for general Municipal taxes. All laws applicable to the levy, collection and enforcement of general Municipal taxes shall be applicable to such assessment. (Ord. 82-56)

15-3-1528: REPAYMENT OF CORRECTION FUND: All money recovered by payment of the charge or assessment or from the sale of property at foreclosure sale shall be paid to the City Treasurer who shall credit the same to the grading correction fund. (Ord. 82-56)

15-3-1529: RESPONSIBILITY AND LIABILITY: Any person who engages in grading is hereby declared to be totally responsible to those persons who he may endanger or, in fact, does endanger, as a result of not having or not following a grading plan or following an incorrect grading plan. (Ord. 82-56)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 4 LAND DEVELOPMENT

PART 1 COMPREHENSIVE PLAN PROCEDURE

SECTION:

15-4-101: Definitions
 15-4-102: Legislative Declaration
 15-4-103: Purposes
 15-4-104: Areas of Consideration
 15-4-105: Planning Basis
 15-4-106: Statements of Trends, Objectives, Policies and Standards
 15-4-107: Development of Plan
 15-4-108: Adoption of Plan
 15-4-109: Legal Status of Plan
 15-4-110: Comprehensive Plan Task Force
 15-4-111: Contents of the Plan
 15-4-112: Use of Comprehensive Plan
 15-4-113: The Comprehensive Plan

15-4-101: **DEFINITIONS:** The following terms, as used in this Article, shall have the following meanings:

COMPREHENSIVE PLAN: Statements in words, maps, illustrations or other media of communication setting forth assumptions, goals, definitions, policies and recommendations to guide public and private development of land within the jurisdiction of the City.¹

LAND DEVELOPMENT: Any existing or contemplated use of land. (Ord. 83-262)

15-4-102: **LEGISLATIVE DECLARATION:**

- A. In order to promote the public health, safety and general welfare, to improve the physical environment of the City as a setting for human activities; to evaluate the social and economic effects of land development; to effect the formularization, determination and implementation of community values, policies, standards and objectives; to consider the effect on community financial capabilities, public and private investments, and to consider the effect

- A) on the environment when making land development decisions, the City Council hereby finds, determines and declares that it is in the public interest that there be a Comprehensive Plan. (Ord. 83-262)

15-4-103: **PURPOSES:** The purposes of preparing the Comprehensive Plan are as follows:

- A. To initiate comprehensive studies of factors relevant to land development.
- B. To recognize and state major problems and opportunities concerning land development and the social and economic effects of land development.
- C. To set forth the desired sequence, patterns and characteristics of future land development and its probable environmental, economic and social consequences.
- D. To provide a statement of programs necessary or desirable in order to obtain the desired sequence, patterns and characteristics of land development.
- E. To determine the probable environmental, economic and social consequences of the desired land development and the proposed programs. (Ord. 83-262)

15-4-104: **AREAS OF CONSIDERATION:** The following areas shall be considered in formulating the Comprehensive Plan:

- A. Present procedures for guiding the public and private development of land shall be reviewed, and when desirable, changes to such procedures shall be considered.
- B. Existing natural conditions shall be used to the extent possible in determining the type, density and intensity of public and private development

1. See also Section 15-3-102E and F wherein the Comprehensive Plan is referred to in the City's Subdivision Regulations.

- B) of land within the planning jurisdiction of the City.
- C. Public improvements, existing and planned, shall be considered as a means to effect the public and private development of land within the planning jurisdiction of the City.
- D. Public utilities, existing and planned, shall be considered as a factor in guiding public and private development of land within the planning jurisdiction of the City.
- E. Maximum utilization of existing public investments shall be considered in guiding public and private development of land within the planning jurisdiction of the City.
- F. That the City may have to provide a broader range of public improvements than undertaken in the past.
- G. That all of the above areas of consideration must be correlated, integrated and coordinated in establishing a Comprehensive Plan. (Ord. 83-262)

15-4-105: PLANNING BASIS: The Comprehensive Plan shall be based on the following:

- A. Population and population distribution, which may include analysis by age, educational level, income, employment, race or other appropriate characteristics.
- B. Amount, type, intensity and general location of commerce and industry.
- C. Amount, type, quality and general location of housing.
- D. General location and extent of existing or currently planned major transportation, utility and community facilities.
- E. Amount, general location, and interrelationship of different categories of land use.
- F. Extent and general location of blighted or deteriorated areas and factors related thereto.
- G. Areas, sites or structures of historical, archaeological, architectural or scenic significance.

- H. Natural resources, including air, water, open spaces, forests, soils, wildlife and minerals.
- I. Present and prospective availability of financial resources needed to undertake development proposed in the plan.
- J. Any other matters found to be important to future land development.¹ (Ord. 83-262)

15-4-106: STATEMENTS OF TRENDS, OBJECTIVES, POLICIES AND STANDARDS:

- A. The Comprehensive Plan may contain statements identifying the present conditions and major problems relating to development, physical deterioration, and the location of land uses and the social and economic effects thereof, and may show the projected nature and rate of change in present conditions for the reasonably foreseeable future based on a projection of current trends, and may forecast the probable social and economic consequences which will result from such changes.
- B. The Comprehensive Plan may include statements of objectives, policies and standards regarding proposed or foreseeable changes in present conditions and problems and regarding any other matters of citizen concern. The Plan may analyze the probable social and economic consequences of its objectives, policies and standards and shall evaluate, to the extent feasible, alternative objectives, policies and standards with respect to probable social and economic consequences.
- C. The Comprehensive Plan may include statements regarding the coordination of the plans, objectives, policies and standards. (Ord. 83-262)

15-4-107: DEVELOPMENT OF PLAN:

- A. In order to initiate development of the Comprehensive Plan, or amendments thereto, it shall be the responsibility of the Planning Department to convene the Comprehensive Plan Task Force for discussion of community values, goals and objectives. The Comprehensive Plan Task Force was responsible for determining the goals, policies and recommendations which will

1. See "Community Profile" dated 1981, City Planning Department for statements of Planning Basis.

- A) form the basis of the Comprehensive Plan. The Planning Department prepared a draft Comprehensive Plan based upon the statements of goals, policies and recommendations of the Comprehensive Plan Task Force. The draft Comprehensive Plan was forwarded to City Council for further discussion, possible revision and adoption.
- B. The purpose of subsection A above was to create a dialogue among the members of the community in relation to the community values, goals and objectives. Such dialogue is a continuing process throughout the development of the Plan, and such process is necessary so that the plan and land development decisions made under the plan reflect community values, goals and objectives. (Ord. 83-262)

15-4-108: **ADOPTION OF PLAN:**

- A. The City Council shall adopt by ordinance the Comprehensive Plan. Because the Plan is a series of statements (goals and policies) to guide the public and private development of land, the Plan need not be adopted as a whole, but may be by adoption of individual statements that may be amended, modified, changed or repealed as other statements are adopted or as community values, objectives and goals are re-evaluated.
- B. Before adopting the Comprehensive Plan or parts thereof, at least one public hearing duly advertised shall be held by the City Council. (Ord. 83-262)

15-4-109: LEGAL STATUS OF PLAN: The contents of the Comprehensive Plan are to serve as a guide in the public and private development of land and as such are not binding upon the City when making specific land use decisions. However, nothing in this Section is intended to prohibit a court in its consideration of governmental action, from considering the reasonableness of the Plan or its appropriateness and completeness in relation to the governmental action under review. (Ord. 83-262)

15-4-110: COMPREHENSIVE PLAN TASK FORCE: In 1981, the City Council appointed a Comprehensive Plan Task Force to draft a Comprehensive Plan for the City. The Comprehensive Plan Task Force was comprised of representatives from a broad range of community

organizations as well as representatives from City and County government. The broad range of community interests represented on the Task Force facilitated full expression of alternate viewpoints related to the City's development. The statements of alternative viewpoints was a process by which the Comprehensive Plan Task Force reached a consensus on statements of goals, policies and recommendations included in the draft Comprehensive Plan prepared by the Planning Department and forwarded to the City Council. The City Council may convene as desired a Comprehensive Plan Task Force to review the existing Comprehensive Plan and recommend changes to the City Council. (Ord. 83-262)

15-4-111: **CONTENTS OF THE PLAN:**

- A. The Comprehensive Plan consists of the City's goals and policies; the appendices thereto constitute City-wide and specific area plans, Comprehensive Plan recommendations, and the current fiscal year work plan.
- B. All other City-wide and specific area plans previously prepared and adopted by the City are hereby incorporated into the Comprehensive Plan as specific recommendations of the Comprehensive Plan. (Ord. 83-262)

15-4-112: **USE OF COMPREHENSIVE PLAN:**

The City Council, all City Boards and Commissions, the various City Departments, Divisions and officials shall be responsible for knowing the contents of the Comprehensive Plan and shall consider the relevant policies set forth in the Comprehensive Plan prior to making decisions; provided, however, nothing set forth in the Comprehensive Plan shall prohibit the City Council, City Boards or Commissions, various City Departments, Divisions and officials, after considering the Plan, from deviating from the policies set forth in the Comprehensive Plan where circumstances so warrant in making decisions affecting specific persons or property. (Ord. 83-262)

15-4-113: **THE COMPREHENSIVE PLAN:**

PART 1

1.0 COMPREHENSIVE PLAN

Goal

- 1.1 After adoption of the Comprehensive Plan it should be utilized and periodically revised.

Policies

1.1.1 The relevant policies of the Comprehensive Plan shall be considered in the course of making decisions which affect the City's development, environment and general welfare.

1.1.2 The Comprehensive Plan shall be reviewed, evaluated and amended to maintain and improve its relevancy and effectiveness as the City's policy guide for the future.

PART 2

2.0 GROWTH AND ANNEXATION

Assumption. The population of Colorado Springs will reach 450,000 to 500,000 by the year 2000. Some of this growth will occur on the urban fringe in areas subject to annexation or County jurisdiction.

Goal

2.1 Plan and guide the development and annexation of the City's enclaves and fringe areas in order to achieve an efficient urban growth pattern consistent with City standards and policies.

Policies

2.1.1 All annexations must meet the following conditions:

- a. The area to be annexed is a logical extension of the City's boundary.
- b. All undeveloped areas to be annexed shall be included in a master plan submitted by the petitioner for the City's approval.
- c. The existing or proposed development of the area to be annexed will be beneficial to the City. Examples of the various tangible and intangible costs and benefits the City may consider to determine benefit include: the short and long term fiscal impact of extending City services, any necessary capital improvements, and anticipated revenues generated by the proposed development; employment opportunity; improved wastewater management; improved drainage control; improved public transportation; diversification of the economic base; the efficiencies of adding enclaves to the City; and

impact on environmental quality.

- d. There is a projected available water surplus at the time of the request and that the existing and projected water and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users.

2.1.2 Property in the County which is totally surrounded by the City should be considered for annexation.

2.1.3 Partially or fully developed areas annexed into the City should pay a fair share of the costs of essential public improvements.

2.1.4 The timing of development and the initial level of City services in areas to be annexed shall be established by an annexation agreement between the City and property owners seeking either annexation or City services.

2.1.5 Development of the urban fringe should be addressed in an intergovernmental agreement with the County and other appropriate local governments in order to assure consistency among local governments' policies and standards.

PART 3

3.0 INFILL

Goal

3.1 Infill to achieve an efficient utilization of the City's resources.

Definitions

3.1.D1 INFILL is development, including provision for parks and open space, which utilizes the existing infrastructure of the City with little or no required additions or extensions to the infrastructure system.

3.1.D2 INFRASTRUCTURE is the facilities and services needed to sustain residential, commercial, industrial, educational and recreational activities. The infrastructure system includes utilities, streets, schools, parks, police and fire stations and services as well as privately owned systems and facilities.

Policies

3.1.1 Infill strategies and assistance should be utilized in areas designated for infill.

3.1.2 The potential for infill development should be a major consideration in the establishment of priorities for capital improvements.

PART 4

4.0 LAND USE

Goal

4.1 Encourage the creation of subcommunities in order to ensure greater efficiency, variety and identity within areas of the City.

Definition

4.1.D A subcommunity is a planned environment incorporating complementary multiple uses with a live/work/play orientation and which may include a focal point of activity. Subcommunities are also characterized by self-sufficiency, and reduced automobile travel between residential, commercial, recreation and employment areas.

Policy

4.1.1 Master Plans for all large new development areas of the City should contribute to the formation of subcommunities. In areas within the City which are partially or fully developed, development and capital improvements which contribute to the formation or completion of a subcommunity should be encouraged.

Goal

4.2 Plan commercial and industrial areas to serve neighborhood, regional and business needs.

Policies

4.2.1 Commercial uses designed to serve a neighborhood shall be conveniently located within the area to be served.

4.2.2 Zoning should permit a limited number of areas for lower cost commercial and industrial sites.

4.2.3 Commercial cluster developments that incorporate unified site and circulation planning shall be encouraged. Strip commercial development along arterial streets shall be discouraged.

4.2.4 Large industrial and employment centers should be located convenient to residential areas.

4.2.5 The City's land use planning, development review and land use decisions should place major emphasis on the consideration of physical elements. Land use supply and demand, the economic feasibility of development and individual financial circumstances should not be considered.

INTERPRETATION OF 4.2.5

For purposes of this policy, "physical elements" are intended to include land use, buildings, streets, traffic, public facilities, housing conditions, the natural environment, public health and safety and the interrelationships of all the above.

This policy is intended to apply equally to proponents, opponents and decision makers in the planning and development review process. For example, neither a need for a commercial facility in a neighborhood nor an excess supply of commercial zoning in the vicinity should be considered in a request for a commercial zone. Similarly, the economics of a particular property or its owner should not be considered in reviewing a land use action. This policy is intended to apply to master plans, zoning and variances. Also, the Comprehensive Plan policy on rezoning (5.1.3) should place major emphasis on those physical elements which may constitute community or neighborhood benefits and adverse impacts. The review of annexation requests and their associated fiscal impacts and redevelopment plans may, however, consider community-wide economic elements.

PART 5

5.0 LAND DEVELOPMENT REGULATIONS

Goal

5.1 Assure that the City's land development regulations provide for efficiency, compatibility, compliance, variety, flexibility and innovation.

Definitions

5.1.D1 A MASTER PLAN is a plan which contains a generalized map of proposed land uses, transportation systems, drainage systems, and open spaces for the development or redevelopment of a portion of the City. A master plan shows the general relationship of proposed uses and streets to each other and to surrounding properties. The maximum proposed density or intensity of development should be done at the master plan stage. Master plans are prepared by the private sector in preparation for development or by the City in developed areas as a framework for additional improvements or redevelopment. A master plan is adopted by City Council after public hearings by the Planning Commission and by City Council. Minor master plan amendments may be approved by the Planning

Director; major master plan amendments must be approved by City Council upon a recommendation by the Planning Commission.

5.1.D2 PERFORMANCE STANDARDS are a flexible method of regulating development. Performance standards are related to the levels of effects of development. The means of development are flexible and are determined by developers and public administrators. Performance standards set the upper limits on those measurable effects of development such as noise level and water and air pollution.

Policies

5.1.1 Master plans shall be required for all new development areas. In all new areas that have been master-planned, zoning on a building site must conform with an approved master plan before construction can begin.

5.1.2 In developed areas, master plans should be prepared, where appropriate, by the City with the assistance of residents and property owners. The actual use of land and the existing zoning should be considered in the preparation of master plans for fully developed areas.

5.1.3 Zoning changes may only be granted when it can be demonstrated that rezoning will result in a community or neighborhood benefit which will outweigh any potential adverse impacts upon surrounding properties. Conformance with the policies of the Comprehensive Plan and other adopted plans may be used as a basis for demonstrating community or neighborhood benefit.

5.1.4 Performance standards should be incorporated, where appropriate, into land development regulations and criteria.

5.1.5 Amendments to approved master plans may only be granted when it can be demonstrated that the amendment will result in a community or neighborhood benefit which will outweigh any potential adverse impacts.

5.1.6 No residential land uses shall be approved in areas of high noise levels resulting from flight activities associated with the operation of the Municipal Airport. These areas are designated on a noise contour map in the airport facilities master plan.

PART 6

6.0 HOUSING

Goal

6.1 Encourage a diversity of housing types, densities and locations in order to provide a sufficient supply and choice of housing at varied price and rent levels to meet the needs of the entire community, including low and moderate income families.

6.1.D1 Subsidized units are those which are offered for sale or rent clearly below market rate.

Policies

6.1.1 The land development regulations affecting housing shall accommodate the need for a sufficient supply and choice of housing at varied price and rent levels while maintaining public safety.

6.1.2 Lower income families and individuals shall have first priority for eligibility in all housing assistance programs.

6.1.3 The Housing Authority's rental units and other subsidized housing developments for families shall be dispersed in the following manner:

a. A maximum of approximately 20 family units per site for new construction.

b. A maximum of 2 family units per block face in existing neighborhoods.

6.1.4 Lower interest rehabilitation loans shall be targeted to lower income families in designated areas.

6.1.5 Multi-family housing developments financed by tax exempt bonds allowing below market interest rates for construction shall provide subsidized units not to exceed 30% of the total number of units in the development.

PART 7

7.0 NEIGHBORHOODS

Goal

7.1 Develop and preserve the unique character of the City's established and developing neighborhoods.

Definition

7.1.D NEIGHBORHOOD STRATEGY AREAS are those neighborhoods which have been designated by the City to receive local, State or Federal funds for the purpose of upgrading the physical and economic conditions in the area.

Policies

7.1.1 New neighborhoods should be uniquely identifiable through the use of focal points, open spaces, preservation of significant natural features and the compatible location and design of mixed uses.

7.1.2 Housing and neighborhood preservation and rehabilitation shall be given first consideration in the selection of City-sponsored programs in neighborhood strategy areas. The City may utilize clearance and redevelopment activities only when rehabilitation is not feasible or in situations of compelling public purpose.

7.1.3 Systematic code enforcement programs should supplement existing enforcement programs as an additional method of neighborhood preservation.

7.1.4 The City should support and participate in the Neighborhood Watch Program.

PART 8

8.0 TRANSPORTATION

Assumption. The private automobile will continue to be the primary means of transportation in the City. Other means of transportation will have increasing importance in the transportation system.

Goal

8.1 Establish a safe and efficient transportation system.

Policies

8.1.1 Access points along major arterials shall be limited and designed to facilitate the safe and efficient movement of traffic.

8.1.2 All new arterial streets shall be designed to accommodate buses.

8.1.3 New at-grade major arterial crossings of main rail lines should be prohibited.

8.1.4 The bicycle routes and lanes that are designated in the Bikeway Master Plan should be implemented.

8.1.5 The movement of traffic to and from downtown should be a prime consideration in the planning and design of arterial streets, traffic control devices, bicycle lanes and mass transit routes.

8.1.6 Public-private financing for the construction of additional parking spaces should be considered in those areas where there are overall shortages of off-street parking.

8.1.7 The City should rely as much as possible on user fee financing for its transportation system. Public transportation, however, is an essential public service and should be partially supported by general public funding as well as by user fees.

Goal

8.2 Separate neighborhood uses and circulation from traffic generated from outside residential areas.

Definition

8.2.D ARTERIAL STREETS carry a high volume of traffic in a rapid and unimpeded manner. The major function of arterial streets is to carry through-traffic between major land use elements and activity centers within the City; the secondary function is to service adjoining properties. The design elements that are associated with arterial streets include controlled intersections, limited access to adjoining property, provision for public transportation and restricted parking.

Policies

8.2.1 New arterial streets should not be constructed within established neighborhoods.

8.2.2 The impact of industrial traffic in residential areas should be minimized.

8.2.3 Residential lots shall not be permitted to access directly on to the arterial streets which may border new neighborhood areas.

8.2.4 New residential development shall be buffered, set back or screened from arterial streets bordering new neighborhood areas.

PART 9

9.0 ENVIRONMENT

Goal

9.1 Preserve and enhance drainageways as amenities to the City.

Policies

9.1.1 The review of master plans and drainage plans for new development areas should consider the effect of soil disturbance and grading on air quality and soil erosion.

9.1.2 The Master Drainage Basin Plan shall establish the method of drainage treatment for each drainage basin in accordance with City drainage policies and standards. All affected master development plans and subsequent zoning development plans and subdivision plats shall indicate conformance to the specified method of drainage treatment for each drainage basin. Any proposed change to the specified form of drainage treatment must be justified through a revised Master Drainage Basin Plan and an amendment to the master plan for development.

9.1.3 A comprehensive system of retention and/or detention of excess storm water should be utilized for flood control, to preserve streams and drainageways in their natural state and to minimize channelization.

9.1.4 Channelization or similar modifications to watercourses shall be considered for reasons of public safety or to avoid possible excessive costs of maintaining streams and drainageways in their natural state. Drainageways not left in a natural condition should be attractively designed to include one or more of the following features:

- a) Landscaping
- b) Trails
- c) Drop structures with low water crossings
- d) Recreational uses
- e) Modified natural condition

Assumption

Motor vehicles are recognized as the principal source of air pollution. Therefore, policies should be directed toward improved traffic efficiency, reduced distance traveled, reduced emissions, and alternate means of transportation.

9.1.5 The construction of drainage facilities should be financed by the developments which create the need for drainage facilities.

9.1.6 Mineral extraction shall be regulated in the City.

9.1.7 Development in suspected natural hazard areas should be carefully reviewed. Land suitability studies may be required prior to the approval of development in these areas in order to avoid potential hazards.

9.1.8 The discharge of untreated domestic and industrial wastes into streams shall be prohibited.

9.1.9 The City shall continue a noise abatement program.

9.1.10 The City shall be a leader to preserve clean air in the Pikes Peak metro region and shall continue to (a) review regional air quality levels, (b) to support periodic and comprehensive air quality planning efforts to obtain and maintain Federal and State air quality standards, and (c) to support State and Federal legislation designed to control emissions from motor vehicles.

Goal

9.2 Preserve, enhance and promote the significant features of the City's natural environment.

Definition

9.2.D SIGNIFICANT NATURAL FEATURES include those ridgelines, bluffs, rock outcroppings, view corridors, foothills, mountain backdrop, unique vegetation, floodplains, streams, surface water, natural drainageways and wildlife habitats which contribute to the attractiveness of the community.

Policies

9.2.1 In areas where both controlled development and preservation are possible, significant natural features shall remain in private ownership and shall be protected as part of a development plan review. Land suitability studies shall be required prior to the approval of development in these areas.

In areas where significant natural features can only be protected by prohibiting development, other methods for preservation may be utilized, such as outright purchase, open space credits, donations or preservation easements.

Goal

9.3 Preserve, enhance and promote the significant historic and architectural features of the City.

Policies

9.3.1 Designated historic or architecturally significant structures shall be eligible for any available City historic preservation programs.

9.3.2 Designated historic or architecturally significant structures shall be subject to a limited review period prior to any proposed demolition or substantial renovation in order for the City and the property owner to jointly explore alternatives to demolition or substantial renovation.

Goal

9.4 Maintain and improve air quality in the Colorado Springs region.

9.4.1 The City's air quality monitoring, analysis and control systems should be continuously and sufficiently funded.

9.4.2 The effect of traffic movement on air quality should be considered in the City's transportation planning and must be a consideration in the City's Traffic Engineering.

9.4.3 Capital projects which contribute to the improvement of regional air quality should receive a high priority for funding by the City.

9.4.4 The City shall continue to support State and Federal Legislation designed to control emissions from motor vehicles.

9.4.5 The City shall actively pursue programs for the paving of streets, alleys and parking areas.

Goal

9.5 Design public and private facilities to enhance the City's natural setting.

9.5.1 The City should set an example for excellent design in its construction of public buildings and facilities.

9.5.2 The private sector should be encouraged

to consider good urban design for new construction, maintenance, rehabilitation and preservation of buildings.

9.5.3 Signs, drainage facilities and landscaping elements should be designed to complement the City's natural environment.

PART 10

10.0 PARKS

Goal

10.1 Provide a balanced system of conveniently located parks and leisure activities for all citizens and visitors to the City.

Definitions

10.1.D1 NEIGHBORHOOD PARKS are generally within walking distance of the neighborhood being served. Neighborhood parks are a minimum of 5 acres and are oriented to all age groups and a variety of uses. They are often combined with an elementary school for the sharing of playground facilities.

10.1.D2 COMMUNITY PARKS are generally 25 to 100 acres and are intended to serve a large section of the City. Features included in a community park may include playgrounds, athletic fields, swimming pools, tennis courts, picnic areas, community recreation building and special features.

10.1.D3 REGIONAL PARKS serve the entire metropolitan area and should be at least 200 acres. Regional parks usually include a major feature that is unique to the region as well as other facilities found in other park types.

10.1.D4 ACTIVE park use refers to organized sports activities such as softball, football and soccer. Active use may also include swimming, tennis and jogging. PASSIVE recreational uses include a wide range of activities such as picnicking, hiking, the viewing of natural features, the visual and performing arts and sports activities spectating.

10.1.D5 PARK DEDICATION is the contribution of land, or fees in lieu of land, which is required of all residential developments for the purpose of providing parks in the City. The amount of land or fees provided are based upon the park needs generated by the proposed residential use.

Policies

10.1.1 Adequate maintenance of parks and recreational facilities shall continue to receive first consideration for Parks Department funding but should not exclude funding for the acquisition and development of parks and open space.

10.1.2 Park and open space acquisition and park development should be funded at a level necessary to keep pace with the City's growth. In the event that funding is not sufficient for both the needed acquisition and development, first consideration should be given to funding for acquisition.

10.1.3 In order to achieve a balanced park system, community and neighborhood parks should have equal priority. Any imbalance or greater deficiency in one park type should be corrected by temporarily placing a higher priority for funding the park type with the greatest deficiency.

10.1.4 If the acquisition of needed trail corridors cannot be achieved by other means, the first consideration for parkland dedication in new development areas shall be for trail corridors, where applicable, in accordance with the Multi-Use Trails Master Plan. The second consideration for dedication shall be for parkland. Third consideration for dedication shall be for park fees in cases where parkland dedication for trails, neighborhood or community parks is not appropriate.

10.1.5 The developed areas of the City which have the greatest deficiency in parks shall have a higher priority for park acquisition and development funds than the newer areas which are not fully developed.

10.1.6 The active and passive uses of parks should both receive equal consideration in the acquisition, development and design of parkland.

10.1.7 Credit towards parkland dedication requirements should be granted to private developments which permanently provide one or more of the following needed parks, open space or facilities:

- A. Neighborhood, community or regional parkland.
- B. Trail corridors.
- C. Park and facilities development.

D. Preservation of significant natural features.

10.1.8 All new park and open space shall be designated in an approved master plan. Any changes to park designations and locations must be reviewed as a part of a master plan amendment.

10.1.9 Recreational programs should be developed and offered primarily on a self-sustaining basis.

10.1.10 Park and recreational facilities should be jointly funded and utilized, where appropriate, by the City and local school districts or other public and private entities.

PART 11

11.0 ECONOMIC DEVELOPMENT

Goal

11.1 Diversify the City's economic base by attracting and retaining a wide range of businesses and industries which are compatible with the community's natural and human resources.

Policies

11.1.1 The City should continue to support efforts to attract and retain those businesses and industries which:

- a. Have minimal adverse environmental and resource impact, and
- b. Contribute to the diversification of the economic base, or
- c. Significantly contribute to the local tax base, or
- d. Utilize and train the existing employment base, or
- e. Are national or regional corporate headquarters.

11.1.2 All new and existing businesses and industries shall comply with any applicable environmental protection standards and code requirements; waivers or variances to such local codes and ordinances shall not be used as incentives or conditions to attract or retain businesses and industries in the City.

PART 12

12.0 DOWNTOWN

Goal

- 12.1 Maintain and promote Downtown Colorado Springs as a unique business, government and cultural center.

Policies

- 12.1.1 Public and private development strategies should be used, if necessary, to encourage and enable the development of area-wide amenities and residential, office, retail and cultural uses in the Downtown area.
- 12.1.2 Special zoning and development regulations should apply to the Downtown area in recognition of the unique problems and assets of Downtown.
- 12.1.3 High intensity uses will be encouraged in the Downtown area.
- 12.1.4 The design of structures, streets and exteriors walkways at the street level in the Downtown area should include features which invite pedestrian use.

PART 13

13.0 UTILITIES

Goal

- 13.1 Provide City utilities in an efficient and equitable manner consistent with the City's policies for growth and development.

Policies

- 13.1.1 The City shall continue to aggressively seek new and reliable water resources to accommodate the City's future growth and development.
- 13.1.2 Major water and wastewater line extensions should follow a logical and cost effective pattern.
- 13.1.3 Water service shall continue to be provided on a first-come, first-served basis to the extent of the City's available water supply.
- 13.1.4 The provision of water service to any customer is a perpetual guarantee of water service except under emergency conditions. Extension of water service shall be governed under the rule of first-come, first-served. The banking of water supply

for the purpose of extending water service to new customers or expanding water service to existing customers is not a viable solution.

- 13.1.5 The users in a development area shall, in general, pay for the water and wastewater facilities necessary to provide service to the development. In areas where extraordinary utilities operation and maintenance result from development, the users in those areas shall also pay for any additional costs.

- 13.1.6 The City shall provide electric and gas service consistent with law.

Goal

- 13.2 Support local energy and resource conservation through the City's development regulations, utility administration and departmental practices.

PART 14

14.0 GOVERNMENT SERVICES

Goal

- 14.1 Provide efficient municipal services in order to respond to the short and long range needs of the community.

Definition

- 14.1.D Municipal government services are those services which are provided for the protection of the public health, safety and welfare.

Policies

- 14.1.1 The level of municipal services necessary to protect the public health, safety and welfare may not be the same throughout the City.
- 14.1.2 Municipal services may be paid for through general taxes, user pay charges or a combination of both.
- 14.1.3 Services available and/or provided to a limited population of the City should be paid for by the recipients of those services.
- 14.1.4 The City shall utilize the resources of the private sector for certain government services when the private sector can provide more economic and effective services than City government.
- 14.1.5 The City should place a high priority on those programs and projects which

generate and attract private sector employment, improvements or investments that are consistent with policies of the Comprehensive Plan.

14.1.6 The routine maintenance of the City's infrastructure must be sufficiently funded on a continuous basis.

14.1.7 A multi-year budget forecast shall be utilized by the City.

Goal

14.2 Provide more efficient local government services through City-County coordination.

PART 15

15.0 CAPITAL IMPROVEMENTS

Goal

15.1 Meet the physical improvement needs of the City.

Definition

15.1.D CAPITAL IMPROVEMENTS are publicly owned physical improvements to the City. There are generally three (3) areas of capital improvements:

- a. Reconstruction, major maintenance or upgrading of existing facilities, including projects required for public safety.
- b. New projects in developed areas where the demand already exists but the project has previously been deferred.
- c. Expansion projects in partially developed or developing areas where demand is anticipated as a result of, or in preparation for, future growth.

Policies

15.1.1 The City's capital improvements program should be sufficiently and continuously funded to provide the physical improvements required for the maintenance and development of the City's infrastructure.

15.1.2 The City's capital improvements should be programmed and prioritized to be consistent with the Comprehensive Plan. The City's capital improvement funding priorities should be:

- a. The first priority for capital improvements shall be for urgent projects which cannot reasonably be postponed including, but not limited to, those maintenance, upgrading or new construction projects which are needed to protect public safety.
- b. The second priority for capital improvements should be for reconstruction, major maintenance or expansion of the City's existing infrastructure in order to provide for the basic service to the existing community. The City should avoid deferring necessary maintenance in favor of new capital projects except for reasons of public safety and other urgent projects.
- c. The third priority for capital improvements should be for those new projects where the demand for basic service already exists.
- d. The fourth priority for capital improvements should be projects which conform to other City policies, such as infill and downtown policies.
- e. The fifth priority for capital improvements are for those expansion projects in partially developed or developing areas where demand is anticipated as a result of, or in preparation for, future growth.

15.1.3 In each of the categories of capital improvement funding priorities listed above, capital improvements in the City's deteriorating areas should be considered important in the funding of capital improvement projects. (Ord. 83-262; Ord. 86-6)

*CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT***ARTICLE 5 CONVEYANCE OF LAND****SECTION:**

15-5-101: Payment of Taxes Required

15-5-102: Acceptance by City Council

15-5-101: PAYMENT OF TAXES REQUIRED:

Except as hereinafter set forth, no deed, dedication or conveyance of land or any interest in land to the City shall be effective unless all taxes owing on such land or interest thereon are paid by the grantor to the date of conveyance. The grantor may tender to the City a prorata share of the current taxes to the date of conveyance based upon the total taxes payable in the year of conveyance at the time of tendering the deed or conveyance. In its discretion, the City Council may expressly waive payment of taxes by the grantor in the event of:

- A. A negotiated purchase of the land in which payment of all current taxes by the City is a consideration of the purchase; or
- B. Where the deed or conveyance is a true gift to the City and not in payment of or in lieu of any required fee or obligation owing to the City. (Ord. 76-37; 1968 Code § 10-175)

15-5-102: ACCEPTANCE BY CITY COUNCIL:

No deed, dedication or conveyance of land or any interest in land to the City for any purpose shall be effective except upon acceptance thereof by the City Council expressed in a formal resolution adopted at a regular or special meeting; provided, however, that in the case of a utility easement for the sole benefit of the land burdened by the easement or for street lighting purposes, acceptance shall be presumed and need not be formally expressed. (Ord. 76-50; 1968 Code § 10-176)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 6 FLOOD PLAIN MANAGEMENT

PART 1 GENERAL PROVISIONS

SECTION:

- 15-6-101: Constitutional Authorization
- 15-6-102: Legislative Declaration
- 15-6-103: Statement of Purpose
- 15-6-104: Methods of Reducing Flood Losses

15-6-101: CONSTITUTIONAL AUTHORIZATION:

Article XX of the Colorado Constitution has delegated the responsibility to home rule cities to adopt regulations and ordinances designed to promote the public health, safety, and general welfare of its citizenry. (Ord. 86-203)

15-6-102: LEGISLATIVE DECLARATION:

- A. The flood hazard areas of the City of Colorado Springs are subject to periodic inundation which has resulted in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstruction in areas of flood hazards which increase flood heights and velocities, and cause damage to land uses in nonflood areas. Land uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to flood loss.
- C. It is in the interest of the public health, safety and welfare to designate a flood plain management program which provides for the protection of identified floodways as well as flood fringe areas, all of which have been established through the base flood elevation maps which have been submitted to the City of Colorado Springs by FEMA. (Ord. 86-203)

15-6-103: **STATEMENT OF PURPOSE:** It is the purpose of this Article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities, and streets and bridges located in areas of flood hazard;
- F. To help maintain a stable tax base by providing for the use and development of areas of flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of flood hazard; and,
- H. To ensure that those who occupy the areas of flood hazards assume responsibility for their actions. (Ord. 86-203)

15-6-104: **METHODS OF REDUCING FLOOD LOSSES:** In order to accomplish its purposes, this Article includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas; and
- F. Prohibiting any development within identified regulatory floodways if any increase in flood levels during the base flood discharge would result due to the development; and
- G. Allowing development in the flood fringe area only if:
 - 1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to one foot (1') or more above the base flood level; and
 - 2. All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed one foot (1') or more above the base flood level, unless a variance is granted therefor pursuant to Section 15-6-404. (Ord. 86-203)

CHAPTER 15 ANNEXATION, SUBDIVISION AND LAND DEVELOPMENT

ARTICLE 6 FLOOD PLAIN MANAGEMENT

PART 2 DEFINITIONS

SECTION:

15-6-201: Definitions

15-6-201: DEFINITIONS: Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

APPEAL means a request for a review of the Flood Plain Administrator's interpretation of any provisions of this Article or a request for a variance, or for a review of the Drainage Board's interpretation of any of the provisions of this Article or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD means the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD means the flood having a one percent (1%) chance of being equalled in any given year.

CRITICAL FEATURE means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be comprised.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of flood hazard.

FLOOD or FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD FRINGE AREA means all areas encompassed within the base flood plain, other than the floodway.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

LEVEE means a man-made structure, usually an earthen embankment, designed and constructed to contain, control, or divert the flow of water to provide protection from flooding.

LEVEE SYSTEM means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices.

MANUFACTURED HOME means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. For purposes of this regulation, manufactured home also includes recreational vehicles or travel trailers placed on a site for more than one hundred eighty (180) days.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means structures for which the "start of construction" commences on or after the effective date of this Article.

REGULATORY FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without any increase in the base flood elevation.

START OF CONSTRUCTION means the first placement of permanent construction of a structure on a

site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation. For a structure without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of a structure or any part thereof on its piling or foundation. For manufactured homes "start of construction" means the affixing of the manufactured home to its permanent site.

STRUCTURE means a walled and roofed building or manufactured home that is principally above the ground.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- A. Before the improvement or repair is started, or
- B. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE, subject to the limitations of Sections 15-6-404 and 15-6-503, means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article. (Ord. 86-203)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 6 FLOOD PLAIN MANAGEMENT

PART 3 APPLICABILITY AND REGULATIONS

SECTION:

15-6-301: Lands to Which This Article Applies

15-6-302: Basis for Establishing the Areas of Flood Hazard

15-6-303: Compliance

15-6-304: Abrogation and Greater Restrictions

15-6-305: Interpretation

15-6-306: Warning and Disclaimer of Liability

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 86-203)

15-6-301: LANDS TO WHICH THIS ARTICLE APPLIES: This Article shall apply to all areas of flood hazards within the jurisdiction of the City of Colorado Springs which are identified in Section 15-6-302. (Ord. 86-203)

15-6-302: BASIS FOR ESTABLISHING THE AREAS OF FLOOD HAZARD: The areas of flood hazard identified in FEMA for the City of Colorado Springs dated December 18, 1986, as amended, are hereby adopted by reference and declared to be a part of this Article. (Ord. 86-203)

15-6-303: COMPLIANCE: No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations.

15-6-304: ABROGATION AND GREATER RESTRICTIONS: This Article is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this Article and other ordinances, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 86-203)

15-6-305: INTERPRETATION: In the interpretation and application of this Article, all provisions shall be:

15-6-306: WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City of Colorado Springs, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 86-203)

CHAPTER 15 ANNEXATION, SUBDIVISIONS AND LAND DEVELOPMENT

ARTICLE 6 FLOOD PLAIN MANAGEMENT

PART 4 ADMINISTRATION

SECTION:

15-6-401: Establishment of Development Permit

15-6-402: Designation of the Flood Plain
Administrator

15-6-403: Duties and Responsibilities of the Flood
Plain Administrator

15-6-404: Appeal and Variance Procedure

15-6-401: **ESTABLISHMENT OF DEVELOPMENT**

PERMIT: Subject to the provisions of this Article 6, a development permit will be obtained before construction or development begins within any area of flood hazard established in Section 15-6-302. This permit shall expire at the end of twelve (12) months from the date of issuance, if start of construction has not taken place. An application for a development permit shall be furnished to the Flood Plain Administrator and shall include, but not be limited to:

A. Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

B. Specifically, the following information is also required.

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15-6-502B; and

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

C. If the proposed development activity is located within an identified regulatory floodway, a certification by a Colorado registered professional engineer that the proposed development will result in no rise in the base flood elevation. (Ord. 86-203)

15-6-402: **DESIGNATION OF THE FLOOD PLAIN**

ADMINISTRATOR: There is hereby created a Flood Plain Administrator position to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Ord. 86-203)

15-6-403: **DUTIES AND RESPONSIBILITIES OF THE FLOOD PLAIN ADMINISTRATOR:**

Duties of the Flood Plain Administrator shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this Article have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from Federal, State, local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the Floodway. If located in the Floodway, assure that the provisions of Sections 15-6-503 and 15-6-404 are not violated.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15-6-302, the Flood Plain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, in order to administer Sections 15-6-502A and 15-6-502B.

C. Information to be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

2. For all new or substantially improved flood-proofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Maintain the floodproofing certifications required in Section 15-6-401B3.

3. Maintain for public inspection all records pertaining to the provisions of this Article.

D. Alteration of Watercourses.

1. Notify adjacent and downstream communities, the Colorado Water Conservation Board, and FEMA Regional Office prior to any alteration or relocation of a watercourse, and submit evidence of such notification to said entities.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of Base Flood Elevation Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in Section 15-6-404.

F. Rules and Regulations. The Flood Plain Administrator is empowered to make such rules and regulations and to establish such criteria and methodologies as are necessary and consistent with the requirements for sound flood plain management pursuant to the guidelines and regulations promulgated by FEMA. (Ord. 86-203)

A. Appeal Board.

1. The Drainage Board, as established by the City of Colorado Springs, shall hear and decide appeals and applications for variances from the requirements of this Article.

2. The Drainage Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Flood Plain Administrator in the enforcement or administration of this Article.

3. Those aggrieved by the decision of the Drainage Board may appeal such decisions to the City Council of the City of Colorado Springs, provided that a Notice of Appeal, stating the grounds therefor, is filed with the City Clerk within six (6) days from the date of the decision of the Drainage Board. The City Clerk, upon receiving a perfected appeal, shall certify the record to the Colorado Springs City Council, and the matter shall be set for public hearing not later than ten (10) days after the certification of the record to the City Council. The review of the City Council on appeal shall be limited to the determination as to whether there is substantial evidence in the record to support the decision of the Drainage Board. If there is substantial evidence in the record to support the decision of the Drainage Board, then the decision must be affirmed. The decision of the City Council, unless the matter is remanded back to the Drainage Board, shall be considered final agency action for all purposes under Colorado law.

4. In passing upon such applications and appeals, the Drainage Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

15-6-404: APPEAL AND VARIANCE PROCEDURE:

A4) f. The compatibility of the proposed use with the existing and anticipated development;

g. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

h. The safety of access to the property in times of flood for ordinary and emergency vehicles;

i. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, and bridges.

5. Upon consideration of the factors of Section 15-6-404A4 and the purposes of this Article, the Drainage Board of City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of the Article.

6. The Flood Plain Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

B. Conditions for Variances.

1. In acknowledging that the FEMA Administrator, pursuant to 44 CFR §60.6(a), may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Administrator may suspend the communities' Flood Insurance Program under 44 CFR §59.24(b), the following criteria must be met with respect to whether a variance to the requirements of this Chapter 15, Article 6 may be granted:

a. Variances shall not be issued within any identified regulatory floodway if any increase in flood levels during the base flood discharge would result.

b. Variances in the flood fringe area shall only be issued upon:

B1b) 1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with any other existing local laws or ordinances.

4. That the variance is the minimum necessary alternative, considering the flood hazard, to afford relief.

5. Consideration of the factors set forth in Section 15-6-404A4a—j.

2. a. In the event that a variance is granted, the Flood Plain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances annually to the FEMA Administrator.

b. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 86-203)

CHAPTER 15 ANNEXATION, SUBDIVISION AND LAND DEVELOPMENT

ARTICLE 6 FLOOD PLAIN MANAGEMENT

PART 5 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION:

15-6-501: General Standards
 15-6-502: Specific Standards
 15-6-503: Floodways
 15-6-504: Flood Fringe Area

15-6-501: **GENERAL STANDARDS:** In all areas of flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. Construction Materials and Methods.

1. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following criteria:

B4) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

3. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less). (Ord. 86-203)

15-6-502: SPECIFIC STANDARDS: Except as otherwise provided with respect to identified regulatory floodways, in all areas of flood hazards where base flood elevation data has been provided as set forth in Sections 15-6-302 or 15-6-403B, the following provisions are required:

- A. **Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot (1') or more above the base flood elevation.
- B. **Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot (1') or more above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - 1. Be floodproofed so that below a point one foot (1') above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - 3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 15-6-403C2. (Ord. 86-203)

15-6-503: FLOODWAYS: Located within areas of flood hazard established in Section 15-6-302 are areas identified as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit development, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that the development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Section 15-6-503A is satisfied, all new con-

- B) struction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Part 5.
- C. Whenever a registered professional engineer has certified to the Flood Plain Administrator that a development in the identified regulatory floodway will not result in an increase in the base flood level, then said development activities shall be in accordance with the requirements of Section 15-6-504, and any other applicable requirements of this Part 5. (Ord. 86-203)

15-6-504: FLOOD FRINGE AREAS: Located within areas of flood hazard established in Section 15-6-302 are areas identified as flood fringe areas. Since flood fringe areas are important to flood plain management for the reason that they provide natural storage of flood waters, control drainage patterns, and are an integral part of the flood plain system, the following provisions, in addition to any other applicable requirements of this Part 5, shall apply:

- A. Provide that all new construction and substantial improvements are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to one foot (1') or more above the base flood level;
- B. That a Colorado registered professional engineer certifies that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity of flood waters;
- C. Provide that all new construction and substantial improvements have the space below the lowest floor free of obstructions or to be constructed with "breakway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure is minimized. Such temporary enclosed space shall not be used for human habitation;
- D. Prohibit the use of fill for structural support of buildings;
- E. Prohibit all new construction and substantial improvements of residential structures unless the lowest floor (including basement) is elevated one

- E. foot (1') or more above the base flood level;
- F. Prohibit all new construction and substantial improvements of nonresidential structures which do not have the lowest floor (including basement) elevated or floodproofed one foot (1') or more above the base flood level. (Ord. 86-203)

CHAPTER 16

BUILDING

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CHAPTER 16 BUILDING

ARTICLE 1 ADMINISTRATION

PART 1 GENERAL PROVISIONS

SECTION:

- 16-1-101: Title
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- 16-1-104: Liability of Officers
- 16-1-105: Appeal Procedures
- 16-1-106: Violations
- 16-1-107: Severability

16-1-101: **TITLE:** This Chapter shall be known as the "Regional Building Code" may be cited as such, and may be referred to herein as the Building Code. Said Building Code shall include those codes adopted by reference herein. (Ord. 84-282)

16-1-102: **PURPOSE:** The purpose of this building code is to provide minimum standards to protect the public health and safety by regulating and controlling buildings, structures, and equipment including but not limited to heating, ventilating, comfort cooling, refrigeration systems; signs and sign structures; elevators, dumbwaiters, escalators, boilers and pressure vessels; plumbing and drainage systems, electric conductors and equipment, and the storage and handling of hazardous materials, and adopting uniform codes, consistent with and generally conforming to similar ordinances and regulations throughout the Pikes Peak region, and to affect said purpose by acting with other governmental bodies in the Pikes Peak region in the promulgation of measures and procedures and the establishment of committees and boards as herein provided and establishing procedures for licensing contractors. (Ord. 84-282)

16-1-103: **SCOPE:** The provisions of the Building Code shall apply to the construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, use, storage, height, area, maintenance, installation, inspection, design, operation, testing, handling, erection and

fabrication of equipment, structures, and buildings within the City, except work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in this Code, and hydraulic flood control structures and structures other than buildings and structures located on publicly owned land. Where, in any specific case, different sections of this Building Code, the zoning ordinance or zoning resolution, or other ordinance or resolution of the City or another governmental body specify different requirements, the more restrictive shall govern.

Historic Buildings: Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building, structure, or its building service equipment may be made without conformance to all the requirements of the technical codes when authorized by the Building Official, provided:

1. The building or structure has been designated by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.
2. Any unsafe conditions as described in this Code are corrected.
3. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building. (Ord. 84-282)

16-1-104: **LIABILITY OF OFFICERS:** The Building Official, the Regional Building Commission and any advisory boards appointed pursuant to any agreement in regard to the Pikes Peak Regional Building Department entered into between the City and the County of El Paso, or any employee charged with the enforcement of this Code acting in good faith and without malice for the City or the County of El Paso in the discharge of his duties, shall not thereby render himself liable personally and is hereby relieved

from all personal liability for any damage that may accrue to persons or property as result of any act required by the Building Code or by reason of any act or omission in the discharge of his duties. Any suit brought against the Building Official, the Regional Building Commission, any advisory boards or any employee because of such act or omission performed by him or in the enforcement of any provisions of this code, shall be defended by the City or the County of El Paso according to the location of the property which is the subject of the act or omission which resulted in the suit until final termination of the proceeding. (Ord. 84-282)

16-1-105: APPEAL PROCEDURES: Any person aggrieved by any decision or order of the Building Official may appeal said decision or order in the following manner:

- A. To one of the appropriate Committees under the Board of Review:
- B. If the decision of the Committee is not favorable to said person, a further appeal of the decision of the Committee may be made to the Board of Review.

Appeals from decisions of the Board of Review are not a function of the applicable legislative body. Recourse from any decisions of the Board is through the courts of El Paso County. Every appeal from a decision of the Building Official or a committee must be perfected within thirty days (30) days from the date of the order or decision appealed from. It shall be lodged with the secretary of the Board or Committee, contain appropriate reference to the decision or order repealed from, and specify the grounds of the appeal. An appeal from a decision of the Building Official or an Advisory Committee shall stay all proceedings in connection with decision or order appealed from unless the Building Official certifies that a stay would cause imminent hazard to life or property. No appeal, however, shall stay the effect of a stop order. (Ord. 84-282)

16-1-106: VIOLATIONS: Any person violating the Building Code or any provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not

more than ninety (90) days in the City Jail or County Jail, or both. A separate offense shall be deemed committed for each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or remodeled, used or maintained in violation of this Chapter or of any provision of the Building Code, the City Attorney or any owner of real estate within the area, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus or abatement to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, remodeling, maintenance or use. (Ord. 84-282)

16-1-107: SEVERABILITY: If any of the provisions of the Building Code or of any code or secondary code adopted in this Chapter or its application to any person or any circumstances are held to be invalid, such invalidity shall not affect other provisions or applications of said Code. The City Council hereby declares in this regard that the provisions of said Building Code and all adopted codes are wholly severable. (Ord. 84-282)

*CHAPTER 16 BUILDING***ARTICLE 1 ADMINISTRATION***PART 2 BUILDING DEPARTMENT*

SECTION:

- 16-1-201: Pikes Peak Regional Building Department
- 16-1-202: Regional Building Commission
- 16-1-203: Finance of Building Department

16-1-201: PIKES PEAK REGIONAL BUILDING

DEPARTMENT: The Pikes Peak Regional Building Department is created pursuant to a resolution of the City, dated April 27, 1976, and pursuant to a resolution adopted by the El Paso County Commissioners on April 22, 1976, which resolutions authorize the execution of an agreement between the City and County of El Paso under the authority of C.R.S. 1973 § 19-302(4), which agreement was entered into effectively on April 17, 1976. Said agreement is incorporated herein by reference, including any amendments thereto and said agreement creates the Pikes Peak Regional Building Department. (Ord. 84-282)

16-1-202: REGIONAL BUILDING COMMISSION:

The Pikes Peak Regional Building Department shall be administered by a governing body of the Department to be known as the Regional Building Commission. The Regional Building Commission has the power and functions set forth in said agreement which include the appointment of the administrator of the Pikes Peak Regional Building Department. (Ord. 84-282)

16-1-203: FINANCE OF BUILDING DEPART-

MENT: The cost of operation of the Pikes Peak Regional Building Department shall be as set forth in the agreement entered into by and between the City and the County of El Paso, State of Colorado, as amended. A budget shall be prepared annually by the Building Official and approved by the Regional Building Commission. At the end of each year a report shall be submitted by the Building Official of all income received. Any deficit in operation of the Department will be made up as provided in said agreement creating the Pikes Peak Regional Building Department. (Ord. 84-282)

CHAPTER 16 BUILDING

ARTICLE 1 ADMINISTRATION

PART 3 BUILDING OFFICIAL

SECTION:

16-1-301: General Powers and Duties
 16-1-302: Act as Deputy Plumbing Inspector
 16-1-303: Appointments
 16-1-304: Reports and Records
 16-1-305: Right of Entry
 16-1-306: Stop Orders
 16-1-307: Occupancy Violations
 16-1-308: Cooperation of Other Officials
 16-1-309: Authority to Disconnect Utilities

16-1-301: GENERAL POWERS AND DUTIES: The administrator of the Pikes Peak Regional Building Department, hereinafter called the Building Official or the Administrative Authority, is hereby authorized and directed to enforce all provisions of the Building Code. (Ord. 84-282)

16-1-302: ACT AS DEPUTY PLUMBING INSPECTOR: The Building Official is hereby confirmed as Deputy Plumbing Inspector for the County Board of Health, and is hereby authorized and directed to enforce all provisions of the Plumbing Code as adopted by the City and El Paso County.

The Building Official shall submit periodic reports as requested concerning the public health aspects of plumbing inspections to the proper official of the County Board of Health. (Ord. 84-282)

16-1-303: APPOINTMENTS: With the approval of the Regional Building Commission, the Building Official may appoint such officers, inspectors and assistants and other employees as shall be authorized from time to time. He may deputize such employees as may be necessary to carry out the functions of the Building Department. (Ord. 84-282)

16-1-304: REPORTS AND RECORDS:

- A. The Building Official shall submit a report to the Regional Building Commission not less than once a year, covering the work of the Department during the preceding period. He shall incorporate in said report a summary of his recommendations as to desirable amendments to this Code.
- B. The Building Official shall keep a permanent, accurate account of all fees and other monies collected and received under this Code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.
- C. The Building Official shall cause a permanent record of all meetings of the Board of Review, as established in Section 16-1-401 to be kept, using a skilled stenographer as secretary of the Board. Such record shall constitute the minutes of any official meeting and shall be kept in the office of the Building Department as a public record accessible at all times. (Ord. 84-282)

16-1-305: RIGHT OF ENTRY: Upon presentation of proper credentials, the Building Official or his duly authorized representatives may enter at reasonable times any building, structure or premises in the City, or the zoned area of El Paso County, to perform any duty imposed upon him by this Code. (Ord. 84-282)

16-1-306: STOP ORDERS: Whenever any work is being done contrary to the provisions of this Code, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work. (Ord. 84-282)

16-1-307: OCCUPANCY VIOLATIONS: Whenever any structure is being used contrary to the provisions of this Code, the Building Official may order such use discontinued and the structure, or portion thereof vacated by notice served on any person causing such use to be continued. Such persons shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion, thereof, comply with requirements of the Code, provided, however, that in the event of an unsafe building Article 5 of this Chapter shall apply. (Ord. 84-282)

16-1-308: COOPERATION OF OTHER OFFICIALS: The Building Official may request, and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the City and the County of El Paso. (Ord. 84-282)

16-1-309: AUTHORITY TO DISCONNECT UTILITIES: The Building Official or his authorized representative shall have the authority to disconnect any utility service or energy supplied to the building, structure or building service equipment therein regulated by this Code or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life and property. The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter. (Ord. 84-282)

CHAPTER 16 BUILDING

ARTICLE 1 ADMINISTRATION

PART 4 BOARD OF REVIEW

SECTION:

16-1-401: Board of Review Established
 16-1-402: General Authority and Responsibility
 of Board
 16-1-403: Advisory Committees; Purpose
 16-1-404: Advisory Committees; Composition
 and Functions
 16-1-405: Board and Committees, Appointments,
 Organization and Meetings
 16-1-406: Liability of Members

16-1-401: **BOARD OF REVIEW ESTABLISHED:** In order to carry out and accomplish the provisions and objectives of the Building Code, there is hereby created a board to be known as the Board of Review.

Said Board of Review shall be composed of five (5) members, said members to serve for terms of three (3) years. The membership of the Board shall include the following:

Registered engineer (structural, electrical and mechanical)
 Architect
 Building contractor A or B (commercial work)
 Building contractor A, B or C (home builder)
 Citizen at large experienced in building construction.
 (Ord. 84-282)

16-1-402: GENERAL AUTHORITY AND RESPONSIBILITY OF BOARD:

- A. The Board of Review shall have the authority to propose rules and regulations and standards as may be necessary to accomplish the purposes and objectives of the Building Code. All said rules, regulations and standards as may be proposed for adoption by the Board of Review shall be subject to final approval of the appropriate legislative body of the City and the

- A) County. All rules and regulations, upon adoption shall be reduced to writing and kept available for public inspection in the office of the Regional Building Official and the City Clerk.
- B. The Board of Review shall be the duly authorized authority for granting and for revoking all licenses provided for in the Building Code.
- C. The Board of Review shall be charged with the responsibility of reasonable interpretation of all codes adopted by the City and the County of El Paso which are administered by the Regional Building Department. The Board of Review may make minor variances from the provisions of said codes, so long as said minor variances when granted are consistent with the intent of the said codes and the standards therein specified relating to quality, design of materials and construction. (Ord. 84-282)

16-1-403: ADVISORY COMMITTEES; PURPOSE: Advisory committees shall be established as advisory to the Board of Review. These committees shall review all appeals with power to interpret and grant minor variances from the Building Code and shall examine all applicants and attest as to their fitness and qualifications for licenses. (Ord. 84-282)

16-1-404: ADVISORY COMMITTEES; COMPOSITION AND FUNCTIONS:

- A. Building Committee. The Building Committee shall be primarily responsible for testing and reviewing all applicants for licenses and the performance of work required under the Building Code, the Sign Code, and the Safety Code for Elevators. The Building Committee shall be composed of:

Registered engineer (structural)
 Architect
 Building contractor A or B (commercial work)

- A. Building contractor A, B or C (home builder)
Building contractor D or subcontractor
Citizen at large - experienced in the building industry
Banker

- B. Electrical Committee. The Electrical committee shall be primarily responsible for testing and reviewing all applicants for registration and the performance of work done under the Electrical Code. The Electrical Committee shall be composed of:

Registered engineer (Electrical)
Architect
Electrical contractor with a Colorado State License
Building contractor A or B (commercial work)
Building contractor A, B or C (home builder)
Journeyman electrician with a Colorado State License
Citizen at large - experienced in the electric industry

- C. Mechanical Committee. The Mechanical Committee shall be primarily responsible for any testing for licensing under the Mechanical Codes and review of applicants for registration under the Plumbing Codes and the performance of work under both Codes. The Mechanical Committee shall be composed of:

Registered engineer (mechanical)
Architect
Building contractor A or B (commercial work)
Building contractor A, B or C (home builder)
Licensed heating contractor A
Colorado State licensed master plumber
Citizen at large - experienced in the construction industry
Licensed heating contractor B
Colorado State licensed journeyman plumber.
(Ord. 84-282)

16-1-405: BOARD AND COMMITTEES; APPOINTMENTS, ORGANIZATION AND MEETINGS:

- A. The Board and Advisory Committees shall be appointed by the Board of County Commissioners of the County of El Paso in conjunction with the City Council, acting as individual bodies, but in agreement. Terms of service shall be three (3) years.
- B. The Board, or each Committee, as its first official act in each year, shall elect a chairman and vice chairman.
- C. Minutes will be maintained of all meetings and be made a permanent public record. To constitute a quorum, at least a majority to the entire membership of the Board or Committee shall be present. The Board, or Committee, shall meet as necessary for the conduct of business.
- D. Board or Committee members shall be dropped from the Board or Committee for failure to attend at least sixty percent (60%) of the scheduled meetings in any twelve (12) month period. (Ord. 84-282)

16-1-406: LIABILITY OF MEMBERS: Any members of the Board, and any members of the Committees provided for herein, acting in good faith and without malice for the City or the County of El Paso in the discharge of their duties shall not thereby render themselves personally liable. Said members are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required, or by reasons of any act or omission related to the discharge of their duties. Any suit brought against a member or members of the Board of Committees, as provided for herein, because of such act or commission performed by them in the discharge of their duties, shall be defended by the City or the County of El Paso according to the location of the property which is the subject of the act or omission which resulted in the suit, until final termination of the proceedings. (Ord. 84-282)

CHAPTER 16 BUILDING
ARTICLE 1 ADMINISTRATION
PART 5 ENUMERATION

SECTION:

- 16-1-501: Declaration of Intent and Purpose
- 16-1-502: Designation
- 16-1-503: Authority
- 16-1-504: General Regulations for Assignment of Numeric Address
- 16-1-505: Regulations for Residential Uses
- 16-1-506: Regulations for Commercial and Industrial Uses
- 16-1-507: Numeric Address Changes
- 16-1-508: Numeric Addresses Required on Final Plat or Replat
- 16-1-509: Temporary Posting of Numeric Address
- 16-1-510: Reporting of Subnumeric and/or Letter Identifiers
- 16-1-511: Regulations for Numbers on Buildings

16-1-501: DECLARATION OF INTENT AND PURPOSE:

The City Council declares that the intent and purpose of this Part is to protect and promote the health, safety and general welfare of the people and their property, to provide for the continuing assignment of property addresses in a logical and orderly manner and to ensure the efficient, timely and convenient delivery of services and goods, public or private, to the people and their property. To this end, therefore, this Part shall be applicable to all property, including structures, which is now in existence or hereinafter constructed and which is subject to the jurisdiction of the Building Official. (Ord. 86-106)

16-1-502: DESIGNATION: The Building Official may designate such employee(s) as may be necessary to carry out the intent and purpose of this Part. (Ord. 86-106)

16-1-503: AUTHORITY: The Building Official shall have the authority to carry out the duties and responsibilities of this Part for all properties subject to the jurisdiction of the Building Official. Such authority shall include, but is not limited to:

A. **Authority to Assign Numeric Address:** The Building Official shall have the authority to assign numeric addresses to property, including structures, in compliance with this Part. In order to duly exercise this authority the Building Official shall have the right to:

1. Enter upon any premises at any reasonable time for the purpose of making inspection of any premises necessary to determine the assignment of any numeric address;

2. Require site plans, building plans, listings of property owners, maps or any other information deemed necessary to determine the assignment of any numeric address;

3. Determine the approval or disapproval of any application requesting an assignment of or change to the assignment of a numeric address;

4. Determine the existence of a significant interest on the part of any person, organization, group, governmental entity or agency that may request a change in the assignment of a numeric address for property not owned by that person, organization, group, governmental entity or agency;

5. Determine the direction of a street pursuant to Section 16-1-504E;

6. Designate numeric addresses on final plats and replats prior to the recording of such plats with the El Paso County Clerk and Recorder's Office.

B. **Authority to Require a Street:** The Building Official shall have the authority to require a street and/or street name when there are no, or not enough, numeric addresses available on an adjacent street such that numeric addresses cannot be assigned as required by this Part.

C. **Authority to Disapprove Building Permit Issuance:** The Building Official shall have the

- C) authority to disapprove the issuance of a building permit until such time that all requirements of this Part are met.

1. Exception: The Building Official may issue a building permit prior to platting of property when waiver of such requirement has been approved in accordance with the Code of the City of Colorado Springs 1980, as amended. The assigned numeric address for such property shall be designated on the final plat or replat.

- D. Authority to Issue Change: The Building Official shall have the authority to issue official notice, including effective date, of a numeric address change.
- E. Authority to Adopt Rules of Procedure: The Building Official shall have the authority to adopt such rules and regulations of procedure that are necessary to implement this Part.
- F. Authority to Act: The Building Official shall have the authority to determine or otherwise act upon the assignment of or a change to a numeric address, or any matter related thereto, which shall be deemed final agency action and not subject to further administrative review or appeal.
- G. Authority to Require Fee: In addition to any fees, the Building Official shall have the authority to require payment in advance of any cost associated with a change to or assignment of a numeric address, including the recording of any necessary documents.
- H. Authority to Enforce: The Building Official shall have the authority to require compliance with the requirements of this Part. It shall be the responsibility of the property owner(s) to meet or cause to be met all applicable requirements. Upon due notification of noncompliance with failing to meet or cause to be met all applicable requirements, the property owner(s) shall be responsible for any and all incurred expenditures on the part of the City of Colorado Springs or any authorized agency in the enforcement of and compliance with applicable requirements. Any person who violates, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Part shall be punishable as provided in Section 1-2-101 of the Code of the City of Colorado Springs 1980, as amended. (Ord. 86-106)

16-1-504: **GENERAL REGULATIONS FOR ASSIGNMENT OF NUMERIC ADDRESS:**

- A. Reference Point: Except for properties that have been historically distinguished by an independent numeric system prior to the adoption of this Part, unless determined by the Building Official that any duplication of numeric address constitutes a hazard to the public health, safety or welfare, all numeric addresses for property within the City of Colorado Springs shall be determined by the intersection of Pikes Peak Avenue and Cascade Avenue. At this reference point, all numeric addresses are the zero hundred block (00) series. From this reference point, all numeric addresses shall project in an outward direction. There shall be no more than one thousand (1,000) numeric addresses assigned to any one mile.
- B. Frontage Interval of Standard Block: The frontage interval of a standard block, for purposes of addressing, is five hundred fifty feet (550'). This interval shall be used in determining where hundred block (00) series numbers will be changed from one hundred to the next higher or lower one hundred block series. The existence of an intersection shall generally require a new hundred block series for numeric addresses. Variation from the frontage interval of a standard block shall be allowed to standardize the numeric addresses of parallel blocks at the same distance from the reference point.
- C. Numeric Address Interval of Lots: Numeric addressing of property contained in any one hundred block series shall be determined by the number of platted lots within that block, for example, but not by way of limitation, nine (9) lots equal numeric addresses in increments of ten (10), such as 2010, 2020, 2030, etc.; twelve (12) lots equal numeric addresses in increments of eight (8), such as 2008, 2016, 2024, etc; fourteen (14) lots equal numeric addresses in increments of six (6), such as 2006, 2012, 2018, etc.
- D. Determination of Even and Odd Numeric Addresses: Odd numeric addresses shall be assigned to property located on the south or east side of a street. Even numeric addresses shall be assigned to property located on the north or west side of a street. Numeric addresses shall not be changed to opposite sides of the street regardless of the direction the street may take, for example, but not by way of limitation, on a

- D) west-east loop street, the even numeric addresses will be located on the west side of the west half of the loop street and on the east side of the east half of the loop street.
- E. Determination of Direction of a Street: A street shall be determined to be either an east-west street or a north-south street based upon the longest linear distance, in feet, of the major orientation of that street. For example, but not by way of limitation, a north-south street of many blocks in length may have a small portion of the street running in an east-west direction; this street shall be determined to be a north-south street.
- F. Determination of Numeric Address: Numeric addresses shall be assigned consecutively. When a determination of the direction of the street has been made, property shall be assigned a numeric address that is consistent with the hundred block series for all parallel blocks equidistant from the reference point. All property located on the same street shall be addressed in either a north-south block series or in an east-west block series; in no event shall there be a combining of the two block series.
- G. Determination of Exceptional Address: The use of subnumerics, such as one-half (½), or alphabetical suffixes, such as A, B, C, etc., is permitted only when whole numeric addresses are not available.
- H. Determination of Officially Approved Numeric Address: The officially approved numeric address is that which is determined by the Building Official at the time of issuance of a building permit. Any numeric address assigned for any particular premises based upon a preliminary plat or development plan shall not be construed to be the officially approved numeric address and shall be subject to change, without prior notice, by the Building Official. Any numeric address designated for any particular premises based upon a final plat or replat that has been recommended for approval shall be subject to change, with notice to the El Paso County Clerk and Recorder's Office, by the Building Official when such a designated numeric address as it appears on the recorded final plat or replat does not conform to the officially approved numeric address as finally determined by the Building Official at the time of issuance of a building permit for that premises. (Ord. 86-106)

16-1-505: REGULATIONS FOR RESIDENTIAL USES:

- A. Detached Single-Unit Residential Use: Except as hereinafter set forth, numeric addresses shall be assigned to any detached single-unit residential premises from the hundred block series of the street that abuts the premises.
- B. Multi-Unit Residential Use: Numeric addresses shall be assigned to any multi-unit residential premises based upon a review by the Building Official of the following facts:
 - 1. Location of development, especially with regard to proximity and access to public streets;
 - 2. Density of development;
 - 3. Lotting pattern of development;
 - 4. Internal access of development;
 - 5. Layout and type of structures, especially with regard to orientation and the type and number of entrances;
 - 6. Nature of ownership of the units;
 - 7. Availability of numeric addresses that are assignable;
 - 8. Any other factor(s) deemed relevant by the Building Official.
- C. Mobile Home Park or Mobile Home Subdivision: Numeric addresses shall be assigned to properties in a mobile home park or mobile home subdivision as outlined in Section 16-1-505B above.
- D. Through Lots or Corner Lots: Preliminary numeric addresses from both streets may be assigned to a through lot or corner lot. This preliminary assignment of a dual address shall not be construed as approval for access, curb cut(s) or driveway entrance(s) for such a lot. The officially approved numeric address of a through lot or corner lot shall be determined at the time of issuance of a building permit.

This officially approved numeric address shall be determined as follows:

- 1. Detached single-unit residential structure: The

D1) numeric address shall be assigned from the block series of the street that is located parallel to the exterior face of the structure that contains, regardless of angle, the main, or commonly known front door, entrance into the structure.

2. Multi-Unit Residential Structure: The numeric address(es) shall be assigned upon a review of the factors outlined in Section 16-1-505B.

3. Mobile Home Park or Mobile Home Subdivision: The numeric addresses shall be assigned upon a review of the factors outlined in Section 16-1-505C.

4. In the event that there can be no determination of a street that is clearly parallel to the exterior face of the structure that contains, regardless of angle, the main, or commonly known front door, entrance(s) into a structure, a numeric address shall be assigned from the block series of the street that would most reasonably and readily be identified as the street upon which the structure fronts. Factors that may be considered, but not limited to, include: lineal feet of property on each street; points of access into the lot; layout of structures on the lot; design of the structure(s) with regard to entrance(s); lineal feet of principal structure facing each street. (Ord. 86-106)

16-1-506: REGULATIONS FOR COMMERCIAL AND INDUSTRIAL USES:

A. Detached Single-Unit Commercial Use or Industrial Use: Except as hereinafter set forth, numeric addresses shall be assigned to any detached single-unit commercial or industrial premises from the hundred block series of the street that abuts the premises.

B. Multi-Unit Commercial Use or Industrial Use: Numeric addresses shall be assigned to multi-unit commercial or industrial premises in the following order of determination:

1. In the event that only one street abuts the premises, numeric addresses shall be assigned from the block series of that abutting street. This shall pertain to property containing any number of freestanding structures.

2. In the event that two (2) streets abut the

B2) premises, numeric addresses shall be assigned based upon a review by the Building Official of the following facts:

a. Location and lotting pattern of development;

b. Access to development;

c. Lineal feet of frontage of lot(s) on each street;

d. Orientation of structure(s) and lineal feet of structural frontage;

e. Any other factor(s) deemed relevant by the Building Official.

Numeric addresses shall be assigned for the potential maximum usage of the development. Unused numeric addresses shall be retained and reserved for future use.

C. Corner Lots or Through Lots: Preliminary numeric addresses from both streets may be assigned to corner or through lots. This preliminary assignment of a dual address shall not be construed as approval for access, curb cut(s) or driveway entrance(s) for such a lot. The officially approved numeric address of the property shall be determined at the time of issuance of a building permit.

The officially approved numeric address shall be determined as follows:

1. Detached Single-Unit Commercial Structure or Industrial Structure: The numeric address shall be assigned from the block series of the street that is located parallel to the exterior face of the structure that contains, regardless of angle, the main, or commonly known front door, entrance into the structure. Should no street parallel said face, then the numeric address shall be assigned from the block series of the street that most reasonably and readily identifies the location and situation of that structure. Factors that may be considered, but not limited to, include: lineal feet of property on each street; points of access into the lot; design of the structure, including orientation, windows, signage and entrance(s); lineal feet of structure facing each street.

2. Multi-Unit Commercial Use or Industrial Use:

- C2) The numeric address(es) shall be assigned upon a review of the factors outlined in Section 16-1-506B2. (Ord. 86-106)

16-1-507: NUMERIC ADDRESS CHANGE:

- A. Procedure: A request for a change of numeric address shall be submitted in writing to the Building Official. The applicant shall clearly state the specific reason for the change and shall submit any other information deemed necessary by the Building Official. No change of numeric address shall be granted by the Building Official unless or until the requirements of this Part have been met.
- B. Notification: An official notice of assignment of numeric address shall be completed by the Building Official on any approved numeric address changes. This notice shall be sent to the property owner as well as other persons, organizations, groups or governmental agencies that provide public service to the property and that request such notice. The notice of assignment of numeric address shall be mailed or otherwise distributed within seven (7) days of the change of numeric address. It shall be the responsibility of each person, organization, group or governmental agency to alter or modify appropriate records. Any conflict or dispute regarding a numeric address change shall be referred for resolution to the Building Official.
- C. Initiation of Request: A request for a numeric address change may be submitted by a property owner or any other party with a determined significant interest, including, but not limited to, providers of emergency services or utilities, the United States Postal Service or the Building Official under any one of the following conditions:
1. Current numeric address is not proper sequence.
 2. Current numeric address is incorrect, confusing or misleading.
 3. Current numeric address is on the wrong side of the street.
 4. Main, or commonly known front door, entrance does not face that street as named in the address.

- C) 5. Realignment of a street or change in street pattern invalidates current numeric address.
6. New street intersection makes current numeric address incorrect, confusing or misleading.
7. A change in street name or street designation makes current numeric address incorrect.
8. The correct numeric address is not being used.
9. A numeric address has not been assigned.
10. Any other justification in furtherance of the purpose and intent of this Part or any other pertinent ordinance, resolution or rule pertaining to property addressing.
- D. Reassignment of Street Name: A request for a numeric address change may also necessitate a corresponding change in the street name that will be used as part of a premises' address for, but not limited to, corner or through lots. In such cases, the Building Official shall have the authority to concurrently approve a reassigned street name upon determination that a numeric address change is appropriate. When such a numeric address change and street name reassignment is approved, the Building Official shall issue official notice, including effective date, of both the numeric change and street name reassignment. (Ord. 86-106)

16-1-508: NUMERIC ADDRESS REQUIRED ON PLATS: The Building Official shall designate, prior to the recording with the El Paso County Clerk and Recorder's Office, assigned numeric addresses in a legible manner on final plats and replats. All corner lots or through lots shall be designated at the discretion of the Building Official. (Ord. 86-106)

16-1-509: TEMPORARY POSTING OF NUMERIC ADDRESS: In order to ensure the timely and effective delivery of private and public services, including, but not limited to, emergency services and assistance, utilities provision and required inspections, it shall be the responsibility of that person, company, firm, business, agency or corporation in whose name the building permit is issued to ensure the temporary posting of the officially approved numeric address. Such temporary posting of this address shall occur

prior to the making of any required inspection. Such a numeric address posting shall be of any material that is weather resistant, shall be plainly visible and legible from the street, road, fire lane or other right-of-way or easement fronting the structure, and shall be maintained until such time as the officially approved numeric address is permanently displayed. (Ord. 86-106)

16-1-510: REPORTING OF SUBNUMERIC AND/OR LETTER IDENTIFIERS: The reporting of any subnumeric and/or letter identifier is required for any unit, but not by way of limitation, in a multi-unit residential, commercial office or industrial structure, or any combination thereof, or a space of lot in a mobile home park:

- A. Upon any change to any such subnumeric and/or letter identifier in existence at the time of this requirement; or:
- B. Upon the assignment of any such subnumeric and/or letter identifier for any such unit constructed subsequent to this requirement, or:
- C. Upon determination by the Building Official that there exists a hazard to the public health, safety or welfare.

It shall be unlawful to fail meeting this requirement within fifteen (15) days of such change, assignment or determination. Such reporting shall be made to the Department of Public Utilities, Meter Reading Division, in writing and shall include, for any change, the original identifier and the new identifier. The Building Official may require the submittal to the Department of Public Utilities, Meter Reading Division, of a floor plan for each floor of the structure upon which shall be designated a subnumeric and/or letter identifier for each unit of the floor. (Ord. 86-106)

16-1-511: REGULATIONS FOR NUMBERS ON BUILDINGS:

- A. Officially approved numeric addresses shall be placed on all new and existing structures, including single-unit and multi-unit residential structures, in such a location and position as to be plainly visible and legible from the street, road, fire lane or other right-of-way or easement fronting the structure.
- B. Except as hereinafter set forth, such officially

- B) approved numeric addresses shall be represented by numbers that are a minimum of five inches (5'') in height with no less than one-half inch (1/2'') stroke so as to be plainly visible and legible from a distance of at least one hundred feet (100') from the structure.

1. Exception: Nonconforming as to size numeric addresses that were lawfully existing upon a single-unit or multi-unit residential structure at the time this dimensional requirement became effective may be continued in use except:

a. Subsequent to a complaint by a party with a determined significant interest, when a determination is made by the Building Official that the requirements of Section 16-1-511A and B are met, that is, the approved numeric address is not plainly visible and legible from the street, road, fire lane or other right-of-way or easement fronting the structure or is not plainly visible and legible from a distance of at least one hundred feet (100') from the structure; or

b. When a building permit for any purpose whatsoever is issued for a single-unit or multi-unit residential structure with such a nonconforming as to size numeric address; or

c. When a determination is made by any enforcement officer that a change in use, either in whole or in part, has occurred in a single-unit or multi-unit residential structure such that the use of such structure is no longer exclusively residential.

2. Exception: Any area occupied by tenants of a mall or shopping center, the main entrance to which is from the inside of the mall or shopping center, or any area used for other than single-unit or multi-unit residential occupancy which abuts a public courtyard or other public space shall be identified by numbers that are a minimum of four inches (4'') in height with no less than one-half inch (1/2'') stroke so as to be plainly visible and legible from a distance of at least fifty feet (50') from the main entrance to the area.

3. Exception: If access to a premises is provided by a private drive or easement or if a structure or portion of a structure is obscured by another structure or other feature, either natural or man-made, or a premises is located on the interior of a lot or block, then the numeric address shall,

- B3) in addition to meeting the requirements of Section 16-1-511, be posted in a permanent manner and forever maintained at a location in the nearby vicinity of the intersection of the private driveway or easement with a public street or at a location such that the numbers are plainly visible and legible and the existence of the premises or structure is reasonably indicated. The numbers shall be on a sign that is attached to a ground stake that does not exceed thirty inches (30'') in height or shall be on a portion of a permanent structure designed and used to house the mail box. Numbers painted or stenciled on a curb shall not serve to meet this requirement.
- C. Such officially approved numeric addresses shall be represented by numbers that are contrasting in color with their background, face the street named in the address and are plain block numerals.
- D. Such officially approved numeric addresses shall not, in any event, be represented by numbers that are affixed to any tree or obscured by vegetation or any other feature, natural or man-made.
- E. It shall be the responsibility of the property owner(s) to meet or cause to be met all of the requirements of this Section. All numbers shall be forever maintained in such a manner as to comply with the requirements of this Section.
- F. A numeric address change shall be requested and may be approved by the Building Official in accordance with Section 16-1-507. It shall be the responsibility of the property owner(s) to ensure that within fifteen (15) days of the official notice of determination of numeric address as issued by the Building Official, the officially approved numeric address is posted in accordance with the requirements of this Section.
- G. It shall be unlawful for any person to alter, deface or remove any number placed on any premises in accordance with the requirements of this Part, except for repair or replacement of such number. Upon notice, actual or otherwise, repair or replacement of any number shall be completed within a twenty four (24) hour time period. (Ord. 86-106)

CHAPTER 16 BUILDING

ARTICLE 2 BUILDING CODES¹

PART 1 UNIFORM BUILDING CODE

SECTION:

16-2-101: Short Title
 16-2-102: Code and Standards Adopted by Reference
 16-2-103: Additions and Modifications
 16-2-104: Application
 16-2-105: Interpretation
 16-2-106: Sale of Copies

16-2-101: **SHORT TITLE:** This Part 1 may be known and cited as the Uniform Building Code. (Ord. 86-157)

16-2-102: **CODE AND STANDARDS ADOPTED BY REFERENCE:** Pursuant to title 31, article 16, part 2, C.R.S. as amended, there is hereby adopted by reference the Uniform Building Code of the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, 1985 Edition, and the Uniform Building Code Standards of the International Conference of Building Officials, 1985 Edition, a secondary code incorporated by reference in the Uniform Building Code, Three (3) copies of each Code are now filed in the office of the Clerk of the City and may be inspected during regular business hours. The above Codes are being adopted as if set out at length save and except the following sections which are declared to be nonapplicable to the City and are therefore expressly deleted:

- | | |
|--|--|
| <p>A. Sections 101 through 307 inclusive.</p> <p>B. Section 6001.</p> <p>C. Chapter 1, Appendix, Life Safety Requirements for Existing Buildings.</p> <p>D. Chapter 12, Appendix, Requirement for Group R, Division 3 Occupancies.</p> <p>E. Chapter 35, Appendix, Sound Transmission.</p> <p>F. Chapter 38, Appendix, Basement Inlet Pipes.</p> | <p>G. Chapter 53, Appendix, Energy Conservation.</p> <p>H. Chapter 57, Appendix, Fallout Shelters.</p> <p>I. Chapter 70, Appendix, Grading. (Ord. 86-157)</p> <p>16-2-103: ADDITIONS AND MODIFICATIONS:
 The said adopted Codes are subject to the following additions and modifications.</p> <p>A. Section 403. At the end of third paragraph, add:

 "When the main living level is below grade it shall be classified as a story."</p> <p>B. Section 409. Delete the definition of "Height of Building" in its entirety, and insert the following:

 "HEIGHT OF BUILDING: The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the roof surface of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and the ridge of a gable, hipped or gambrel roof, provided that no part of such roofs shall extend more than five feet (5') above the permitted height. The average elevation of the finished grade adjoining the building shall be the average of the exposed exterior elevations of all corners of the building. The height of a stepped or terraced building is the maximum height of any segment of the building."</p> <p>C. Section 503(d). In Exception 3. Delete the words:

 "self closing".</p> <p>D. Section 510(b). In the first sentence change:

 "5 inches" to "4 inches".</p> <p>E. Add a new subsection to Section 511(a) to read:

 "511(a) 6. Toilet facilities in H occupancies and</p> |
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¹ Persons using the Codes adopted in this Article should also be aware of the Uniform Fire Code adopted by Article 2 of Chapter 20 of this Code.

- E) toilet facilities in B occupancies with an occupant load of fifty (50) persons or less may comply with the following:
1. In toilet rooms without compartments, a clear and unobstructed access of not less than thirty two inches (32") nominal and a clear space, unobstructed by door swing, grab bars and similar items, of not less than thirty two inches (32") shall be provided in front of the toilet stool. Grab bars shall be provided as required in item 4 above.
 2. Where compartments are provided, at least one shall comply with Section 511(a) 3.
 3. The door shall not swing into the toilet rooms, unless approved by the Building Official."
- F. Section 511(b) 1. Add at the end of the sentence:
- "when more than one lavatory is required."
- G. Table 5A.
- Under B-1 and B-2 occupancies, in the column entitled "fire resistance of exterior walls" change "1 hour less than 20 feet" to read "1 hour less than 10 feet".
- Under B-2 occupancies, in the column entitled "Description of Occupancy" change "Drinking and dining establishment with an occupancy load of less than 50", to "an occupancy load of less than 100".
- H. Section 605. At the end of the second paragraph, add:
- "Where two (2) or more toilet facilities are connected to one venting system, the system shall be installed in such a manner as to prevent cross contamination".
- I. Section 701. Change the second paragraph to read:
- "Division 2. Drinking and dining establishments having an occupant load of less than 100..."
- J. Section 705. At the end of the sixth paragraph add:
- J) "Where two (2) or more toilet facilities are connected to one venting system, the system shall be installed in such a manner as to prevent cross contamination".
- K. Section 801: Delete Division 3. Substitute the following:
- "Division 3. Any building used for day care purposes for more than six fulltime children."
- Add Footnote 7 to Table 38-A:
- "7. A class 2 standpipe shall be installed in buildings where any floor is more than twenty feet (20') above grade for more than fifty percent (50%) of the perimeter and located in areas where the Fire Department lacks adequate equipment to perform firefighting operations from the exterior."
- L. Section 805. Add:
- "Where two (2) or more toilet facilities are connected to one venting system, the system shall be installed in such a manner as to prevent cross contamination".
- M. Section 905. At the end of the fifth paragraph, add:
- "Where two (2) or more toilet facilities are connected to one venting system, the system shall be installed in such a manner as to prevent cross contamination".
- N. Section 908. Change the third paragraph to read as follows:
- "In Divisions 1, 2, and 3, there shall be no openings in such occupancy separations except for necessary ducts and piping. In Divisions 4 and 5 there shall be no openings in such occupancy separations below sixty-six inches (66") above the floor."
- Change the fifth paragraph to read:
- "sixty-six inches (66") instead of eighteen inches (18")."
- O. Section 1005. At the end of the Section, add new paragraph:

- O) "Where two (2) or more toilet facilities are connected to one venting system, the system shall be installed in such a manner as to prevent cross contamination".

- P. Section 1104. Add:

"In rooms used for garages, or other rooms in which volatile flammable liquids are used or stored, no device generating a glow or flame capable of igniting gasoline vapor shall be installed or used within eighteen inches (18") of the floor. No duct from any direct-fired heating system shall extend below eighteen inches (18") above the floor.

- Q. Section 1204. Add the following exception to the second paragraph:

"Exception: In basements, only one emergency exit complying with the requirements of this Section, or an exterior door, must be provided in addition to the main exit. Where possible such emergency exit shall be located a distance apart of not less than one-half ($\frac{1}{2}$) of the length of the maximum overall diagonal dimensions of the area served. A window well or area way with a minimum dimension of thirty inches (30") shall be provided for such emergency exit."

In the third paragraph delete:

"5.7 square feet" and insert "4.5 square feet".

After the third paragraph add:

"A three foot (3') wide by four foot (4') high nominal window divided in the center with a minimum vertical opening of nineteen inches (19") and a minimum net clear opening of four and one half square feet (4.5 sq. ft.) is approved."

- R. Section 1205(a). Add the following exception to the first paragraph:

"EXCEPTION: Basements may be provided with natural light by means of windows having an area equal to five percent (5%) of the floor area. (Window wells for required windows shall be equal in area to the portion of the window below grade and shall extend out from the wall a minimum of sixteen inches (16"). Overhangs above required windows shall be a minimum of

- R) twenty four inches (24") above grade. Where not over required windows, overhangs shall be a minimum of eighteen inches (18") above grade. In the third paragraph, after the words "connected directly to the outside," add the words "or in Division 3 occupancies to a properly vented attic".

Paragraph 1 and 3. Delete:

"laundry rooms".

At the end of the third paragraph add:

"Where two (2) or more toilet facilities are connected to one venting system, the system shall be installed in such a manner as to prevent cross contamination".

- S. Section 1207(a). Add the following exception to the third paragraph:

"EXCEPTION: The ceiling height in basements may be reduced to six feet eight inches (6'8") over a width of five feet (5') under furred-down beams, pipes and ducts."

- T. Add a new Chapter 16. TEMPORARY BUILDINGS AND MOBILE HOMES:

"Unprotected Type V buildings not more than one story in height or more than one hundred square feet (100 sq. ft.) in area shall be permitted if the exterior walls are ten feet (10') or more from adjacent property lines and twenty feet (20') or more from any other building. The buildings shall be considered as temporary, and shall be placed on skids instead of foundations and permits shall be issued by the Building Official subject to annual review and shall be revocable.

Temporary use of other nonconforming structures may be granted by the Building Committee, provided the Committee determines that such use will not be detrimental to public health, safety or welfare. Such use shall be by special permit issued by the Building Official, subject to annual review and shall be revocable.

Mobile homes, including trailer coaches, subject to zoning regulations, may be granted

- T) special temporary permits for use as dwellings. Said special permit shall be issued by the Building Official, subject to requirements of the Building Code and Zoning which exist at the time of application. Such permit shall be revocable. Said special permit shall apply only to the mobile home or trailer coach for which it was obtained and shall not run with the land as a permitted use.

Prior to the occupation of any mobile home or trailer coach in a mobile home park, a permit shall be obtained. Said mobile home or trailer coach shall be inspected by the Building Department and shall be in conformance with the requirements of this Code. (See Mobile Home Code)¹

No additions shall be made to an approved mobile home system unless the addition either meets the Building Code or is an approved system, also."

- U. Section 1706(a) Exception 3. At the end of the paragraph add:

"R-3 occupancy may have a chute with a cross sectional area of not more than one square foot (1 sq. ft.), through not more than two (2) adjacent floors with a self-closing door at the top of the chute, with a metal lining as specified above."

- V. Section 1709. Add Exception 5:

"5. Existing buildings not less than five feet (5') from property line and not more than two thousand square feet (2,000 sq. ft.) per floor."

- W. Section 1711. Add the following exception:

"7. Window wells located in patios, porches or sidewalks and located in the normal path of walking shall be protected by a grate or guardrail."

- X. Section 1717. Add new Section 1717 after Section 1716 as follows:

"1717. Open sides of Buildings: Where protection of openings is required, walls must be provided. The fire-resistance of such walls shall be in accordance with Section 504 and Table No. 5-A."

- Y. Section 1807(g). In the first sentence delete the words:

"Natural or".

Will now read: "Mechanical ventilation for the removal of products of combustion shall be provided in every story and shall consist of one of the following."

Delete paragraph 1 and the exception.

- Z. Section 2305(d). Delete entire section and add:

"Snow Loads. Every building component shall be provided with strength to resist the most critical effect resulting from the following snow load distributions:

"1. Uniform: For all structures located below seven thousand feet (7,000') elevation, the uniform snow load shall be thirty (30) pounds per square foot and above seven thousand feet (7,000') shall be forty (40) pounds per square foot of horizontal projected area. The uniform snow load may be reduced for slopes according to Appendix Chapter 23, Division I - Section 2315.

"2. Unbalanced and Drifts: See Appendix Chapter 23, Division I, Alternate Snow Load Design. Basic ground snow loads (Pg) shall be twenty (20) and twenty-seven (27) pounds per square foot for structures located below and above seven thousand feet (7,000) elevation, respectively. Section 2318, rain or snow, need not be considered."

- AA. Section 2308(b). Add:

"A building permit shall be required for all retaining walls where there is a four foot (4') or more difference in elevation between grades. Any slopes greater than 2 horizontal to 1 vertical shall be considered as earth surcharge whether a structure is involved or not.

Any retaining wall over nine feet (9') difference in elevation and those four feet (4') or over involving a surcharge from buildings, highways, railroads or other structures require the seal of an engineer or architect registered in the State of Colorado, and must be constructed by a licensed contractor. All retaining walls shall have

1. See Part 8 of this Article.

AA) one and one-half inch (1½") weep holes spaced not more than ten feet (10') apart."

AB. Section 2311(a). Add sentence at the end of the first paragraph:

"No alternate methods of wind load design shall be permitted."

AC. Section 2311(b). Delete the entire section and insert the following:

"BASIC WIND SPEED: The minimum basic wind speed for determining wind pressure shall be 85 mph. The wind stagnation pressure (qs) at a height of thirty feet (30') shall be at 19 psf."

AD. TABLE 23-G. Delete the column entitled:

"EXPOSURE B".

AE. Section 2407(i)6. Add the following:

"The maximum spacing between lateral supports for exterior walls is twenty-four feet (24').

"The units must be manufactured by an approved manufacturer and tested and approved by an approved independent testing laboratory."

Add the following exceptions:

"1. Using the design requirements specified in this Code, adobe block may be used in a two story building and the minimum thickness shall be as follows:

8" in interior bearing walls.

10" in exterior bearing or non-bearing walls below a roof only.

14" in exterior bearing or non-bearing walls below a floor.

"2. Unstabilized units may be used in interior walls."

AF. Section 2517(d)3. Delete the last sentence in the first paragraph and substitute:

"Solid blocking shall be not less than two inches (2") in thickness and not more than one size in depth smaller than the joists. When blocking supports a bearing wall above, blocking shall be the full depth of joist."

AG. Section 2517 (g). Add:

"10. In items 8 and 9 above, good workmanship is required in all cases. Studs having holes or notches larger than required to accommodate the piping shall be replaced or satisfactorily repaired. Where holes larger than indicated above are required to accommodate the piping in nonbearing studs, such studs may be reinforced by the addition of ½" x 1½" steel straps fastened to each side of the stud with four 16d nails. Where holes or notches larger than allowed above are required to accommodate the piping in bearing studs, engineering calculations shall be submitted in all cases to show that the stresses allowed by this Chapter are not exceeded under the design loads."

AH. Section 2717(h) 6. Add to last sentence:

"When depth of member at bearing exceeds eight inches (8")."

AI. Chapter 29. Table 29A.

Change the figures in the last column to read "thirty inches (30")", in each case.

AJ. Section 2907(b). Add the following to the exceptions:

"3. Open sides of existing patios, carports and porches may be enclosed with walls of light nonbearing construction (glass, plastic, wood, screen, metal or other light materials) without providing the required thirty inch (30") deep foundation. If the roof span is more than twelve feet (12'), the foundations at columns and bearing walls must be thirty inches (30") below finish grade. Where such enclosures are provided with a heat source (other than solar heat), they shall be considered as habitable rooms and shall comply with all other provisions of this Code.

4. In existing dwellings, the replacement of garage doors with walls (except masonry) does not require the installation of a thirty inch (30") deep footing across the door opening.

5. A detached wood frame garage, not exceeding three hundred fifty square feet (350 sq. ft.) in area, in connection with an R-3 occupancy may be constructed on a thickened-edge slab with the thickened edge extending twelve inches (12") below finish grade."

AK. Section 2907(d)5. Delete:

Paragraph 5 Foundation Elevation.

Add to Chapter 29.

AL. Section 2910. Add the following Section:

"Sub-surface drains: Where drains are provided for the collection of rain, surface or sub-surface water, such drains shall not be connected to or discharged into the building sewer drain."

AM. Section 3004(c). Add as a second paragraph:

"Metal ties shall be placed as follows:

▶▶Vertical▶Vertical◀
 ▶Horizontal▶(3" brick)▶(Other)
 ▶
 ▶32"oc▶12"oc▶16"oc◀
 ▶24"oc▶16"oc▶20"oc◀
 ▶16"oc▶24"oc▶24"oc
 ▶

"When veneer is attached to wood frame construction, ties shall be secured to studs."

AN. Section 3202(b)1. Delete paragraph 1 and substitute:

"1. Ordinary roof coverings may be used on buildings of Group R, Division 3 or Group M Occupancies, except that when buildings are connected and contain more than one (1) R-3 dwelling unit, roof covering shall conform to the requirements for Group R, Division 1 Occupancies."

AO. Section 3202(d)3B AND 3G.

"(d) Acceptable practice regarding roofing and re-roofing.

1. A maximum of three asphalt or combination of asphalt and wood shingle roof coverings are permitted on any roof. Not more than one (1) layer of wood shingles shall be permitted over existing wood shingles. The design deadload of the roof shall consider the weight of all three roof coverings.

2. The only face nailing permitted is as follows:

AO) a. The rake of the roof on "Tee Lock" shingles only.

b. The ridge cap on all types of shingles with a maximum exposure of five and one half inches (5½") or less, as per manufacturer's specifications.

c. Flashings at clear story: If shakes are used, a soldier course is required over the flashing to nail through. When face nailing the flashing on asphalt shingled roofs, the nail heads must be covered with mastic.

3. Roof jacket must be raised and properly re-installed, or new jacks must be installed.

4. Post permit on outside of building."

AP. Section 3203(d)3 G and (H). Add:

"Only No. 1 grade wood shakes and shingles may be used."

Delete: Footnote No. 1 to Table 32-A in its entirety.

AQ. Section 3304(c). Add the following to the first paragraph:

"Special knowledge or effort means any locking or latching device which requires use of more than one hand or more than one operation of the locking or latching device to unlock or unlatch and open the exit door."

AR. Section 3305(g). Add the following exception:

"7. Office building not exceeding seven thousand, five hundred square feet (7,500 sq. ft.) per floor, not exceeding two floors, and entirely of fire resistive or noncombustible construction."

AS. Section 3306(j) Exception 3. Delete and insert:

"Stairways having less than four risers need not have handrails."

AT. Section 3310(b). Add the following exception:

"3. In buildings more than two (2) stories in height and located in areas where the fire department lacks adequate equipment to per-

AT) form rescue operations from the exterior above the second story, all exits shall be smokeproof enclosures. One of the smokeproof enclosures shall be used to meet the requirements of Section 3306(o)."

AU. Section 3403. Add the following exception after the first paragraph:

"EXCEPTION: Within individual dwelling units of R-1 occupancies and in R-3 occupancies, tempered glass skylights twenty-four inches (24") by seventy-two inches (72") or less may be used without a screen below the skylight.

AV. Section 3701. Add:

"All wood (or coal) burning "stoves" shall conform to the requirements of this Chapter and the Uniform Mechanical Code. A building permit is required for such installation."

AW. Add a footnote Table 38A:

"8) Enclosed malls shall be provided with a Class 1 standpipe. The Class 1 standpipes shall be a minimum of four inch (4") pipe connected to fire department connection outside the mall. Fire department connections shall be spaced so that they are not over one hundred fifty feet (150') apart and each fire department connection shall be equipped with an approved shut-off valve with a two and one-half (2½) outlet connection. Fire department connections and detailed requirements shall be in accordance with the UBC Standards."

AX. Add a footnote to Table 38A:

"7) A Class II standpipe shall be installed where any floor is more than twenty feet (20') above grade for more than fifty percent (50%) of the perimeter and located in areas where the fire department lacks adequate equipment to perform firefighting operations from the exterior."

AY. Section 4405. Add a second paragraph:

"Prior to commencement of any wrecking operations, the applicant shall contact the responsible utility company and obtain permission for such disconnection, and instruction as to the methods for such

disconnection and securing of all utilities in order to obtain final inspection and approval of completion of the wrecking permit. The contractor shall provide the Department with proof that all utilities have been secured in accordance with the requirements of the responsible utility company."

AZ. Section 4409. After the second paragraph, add:

"A wrecking permit shall be obtained prior to commencement of any operation.

Where the wrecking time is so short that walkways and fences are not justified, the applicant may choose to provide 24 hour continuous guard service adequate for the protection of the public. This option must be approved by the Building Official.

Demolition by means of explosives or by burning is not permitted except when specifically approved by the Building Official.

Construction and demolition operations shall be in compliance with fire department regulations."

BA. Add new Section 4410.

"Section 4410. Clean Up. After completion of construction or demolition work, all trash, debris and construction material shall be removed from the site. All holes in the ground, basements or cellars shall be filled with compacted, clean earth and the site shall be left in a clean, smooth condition. Excavations shall not be backfilled with debris or construction material, but, when approved by the Building Official, existing structurally sound walls below grade and basement slabs may be left in place.

When basement slabs are to be left in place, they shall be broken up or drilled in such manner as to allow proper drainage after they are backfilled. Backfilling of or fences around such excavations are not required where the sides of the excavations are cut back to a slope not to exceed 3 horizontal to 1 vertical. Where excavations are to be left open because of future construction the wrecking contractor shall provide a barricade for a period not to exceed three (3) days, after which the owner of the land shall provide a permanent fence.

BA) All debris shall be disposed of only in approved areas designated by the Building Official."

BB. Add a new Section 4411.

"Section 4411. Dust Control. Dust shall be controlled by water in accordance with Health Department Regulations."

BC. Section 4506(b). Exception 2.

"A fixed awning not more than ten feet (10') in length nor more than six feet (6') in width, constructed of metal frame with canvas covering, adequately anchored to a substantial concrete slab need not meet live nor wind load requirements.

BD. Chapter 32 in the Appendix.

Section 3212(2) and (3).

"Only No. 1 grade wood shakes and wood shingles may be used".

Add new Section 3213.

"Section 3213 Acceptable practice regarding roofing and re-roofing.

1. A maximum of three asphalt or combination of asphalt and wood shingle roof coverings are permitted on any roof. Not more than one (1) layer of wood shingles shall be permitted over existing wood shingles. The design deadload of the roof shall consider the weight of all three roof coverings.

2. The only face nailing permitted is as follows:

a. The rake of the roof on "Tee Lock" shingles only.

b. The ridge cap on all types of shingles with a maximum exposure of five and one half inches (5 ½") or less, as per manufacturer's specifications.

c. Flashings at clear story: If shakes are used, a soldier course is required over the flashing to nail through. When face nailing the flashing on asphalt shingled roofs, the nail heads must be covered with mastic.

BD) 3. Roof jackets must be raised and properly re-installed, or new jacks must be installed.

4. Post permit on outside of building." (Ord. 86-157)

16-2-104: **APPLICATION:** This Part 1 shall apply to every building or structure within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-105: **INTERPRETATION:** This Part 1 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulation contained herein. Article and section headings of this Part 1 and adopted Uniform Building Code and the Uniform Building Code Standards shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of provisions of any article or section thereof. (Ord. 86-157)

16-2-106: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-157)

CHAPTER 16 BUILDING
ARTICLE 2 BUILDING CODES
PART 2 UNIFORM MECHANICAL CODE

SECTION:

16-2-201: Short Title
 16-2-202: Code Adopted by Reference
 16-2-203: Additions and Modifications
 16-2-204: Application
 16-2-205: Interpretation
 16-2-206: Sale of Copies

16-2-201: **SHORT TITLE:** This Part 2 may be known and cited as the Uniform Mechanical Code. (Ord. 86-157)

16-2-202: **CODE ADOPTED BY REFERENCE:**

Pursuant to title 31, article 16, part 2, C.R.S., as amended, there is hereby adopted by reference the Uniform Mechanical Code of the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, 90601, 1985 Edition. Three (3) copies of such Code are now filed in the office of the Clerk of the City and may be inspected during regular business hours. The above Code is being adopted as if set out at length save and except the following sections which are declared to be inapplicable and are therefore expressly deleted.

A. Sections 201, 203 through 305 inclusive. (Ord. 86-157)

16-2-203: **ADDITIONS AND MODIFICATIONS:**

The said adopted Code is subject to the following additions and modifications:

(DO NOT COUNT EXCEPTION PROVISIONS AS SEPARATE PARAGRAPHS)

A. Section 103. Paragraph 5: Delete and Insert:

"Appendix B shall be considered as part of this Code."

B. Section 503. Paragraph (c): Add Exceptions 5, 6, and 7:

"5. Connector shall be of the shortest suitable length and have no bends or turns in excess of 180 degrees."

"6. When connectors are used to connect a fixed appliance, the piping from the control valve to the outside of the case shall be rigid."

"7. The rigid gas piping supplying the connector shall be solidly supported within two feet (2') of the joint between the piping and the connector."

C. Section 508. Add:

"Gas appliances shall not be installed in a room used or designed to be used as a bedroom, bathroom, closet or in any enclosed space with access through such room or space. EXCEPTION:

1. Direct vented gas appliances may be installed in any location compatible with its listing.

2. Listed gas fireplaces may be installed in a bedroom if additional combustion air is provided from either outside the building or from other freely communicating interior spaces (transfer grill shall be sized at one (1) square inch per one thousand (1,000) BTU/Hr. and located within twelve inches (12") of the ceiling)."

"Access to appliances located in an attic or under floor crawl space may be through a closet."

"Access to gas appliances installed in under floor spaces shall not be through the garage."

D. Section 601. Add:

"c. Relief Air. In addition to the following

- D) combustion air requirements, all R occupancies heated by fuel-burning forced warm air systems shall be provided with a relief air duct admitting outside air to the cold air return of the heating system. Generally, this duct should be connected to the return at the furthest most point of the return air system. This duct shall be a minimum of four inches (4") in diameter when serving an appliance with an input rating of ninety-five thousand (95,000) BTUH or less and shall be a minimum of six inches (6") in diameter when serving an appliance with an input rating of more than ninety-five thousand (95,000) BTUH. When such ducts pass through a heated space, they shall be insulated to prevent condensation. EXCEPTION: Relief air ducts may be omitted when outside combustion air is provided in accordance with Section 607 (c) paragraph 2 or 3."
- E. Section 606. Add:
- "When a clothes dryer is located in the same room with gas appliances, the combustion air requirements shall be increased by two hundred thousand (200,000) BTUH to insure an adequate supply of exhaust and combustion air."
- F. Section 707. Add:
- "(c) Private Garages. Any warm air duct opening installed in a private garage shall be not less than eighteen inches (18") above the floor."
- G. Section 801. Add:
- In the referenced section, add to the listing of appliances cited... "water heaters".
- H. Section 802. Add:
- In the referenced section, add to the listing of appliances cited... "water heater". In paragraph 3, Item (2), add "(excluding water heaters)", and in Item (6), change "eighteen inches (18") to "sixty-six inches (66)".
- I. Section 803. Paragraph 2, Including subparagraphs 1, 2, 3, and 4: Delete and Insert:
- "Gas logs that are not part of a listed gas fireplace are prohibited."
- J. Section 804. Paragraph (a), (b), and (c): Delete and Insert:
- "Floor furnaces are prohibited."
- K. Section 906. Paragraph (d):
- Change vent termination height to "3 feet". Change MINIMUM VERTICAL DISTANCE... line in Figure No. 1 to three feet (3').
- L. Section 906. Paragraph (e):
- Change vent termination height to "3 feet".
- M. Section 1005. Paragraph 1: Delete and Insert:
- "Every supply and return-air duct and plenum of a heating or cooling system shall be thermally insulated as set forth in the current Model Energy Code. Ducts and plenums used exclusively for evaporative cooling systems are exempt."
- N. Section 2003 (a): Delete and Insert:
- "Where required. Hoods shall be installed at or above all residential and commercial type deep fat fryers, broilers, fry grills, steam-jacketed kettles, hot-top ranges, ovens, barbecues, rotisseries, dishwashing machines and similar equipment which produces comparable amounts of steam, smoke, grease or heat in a commercial food-processing establishment. For the purpose of this section a commercial food processing establishment shall include any building or portion thereof used for the processing of food for sale or for institutional consumption. Specifically exempt are dwelling units and other R-3 occupancies using residential-type equipment, such as Family Care Homes of ten occupants or less and lodging houses. Other kitchens with residential-type equipment not considered to be commercial food-processing establishments will also be exempt."
- O. Section 2004. Paragraph (b): Add:
- "Providing along the path of exit from the hood a clearly identifiable and readily accessible means to manually activate the fire extinguishing system."

- O) The operation of the extinguishing system shall automatically shut off all sources of fuel and heat to the equipment protected by the extinguishing system. Automatic valves and cut-off devices shall be readily accessible for resetting or replacement."
- P. APPENDIX B, Section 2106. Add:
 "(f) Backflow Prevention. An approved backflow prevention device shall be installed on any piping between the hydronic system and the potable water source."
- Q. APPENDIX B, Section 2123. Paragraph 2, Including Exception and 3: Delete.
- R. APPENDIX B, Section 2124, 2125, and 2126: Delete.
- S. APPENDIX B, Section 2203. Paragraph 3: Delete.
- T. APPENDIX B, Section 2206. Paragraph (b) and (c): Delete and Insert:
 "(b) Required Inspections. The permit holder shall furnish the necessary apparatus to conduct the required tests for the following inspections.
 "1. New or Altered Gas Piping Inspection. This inspection shall be made after all gas piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixture, appliance or shut-off valve has been attached thereto. In some cases, at the discretion of the Building Official, an additional test may be required when all interior finish work has been completed. The gas piping shall be subjected to an air pressure test of fifty (50) psig for a period of twenty-four (24) hours with no perceptible loss of pressure."
 "2. Disconnected Gas Piping Inspection. When existing gas piping is disconnected from the source of supply (gas meter removed, etc.) for more than sixty (60) days, the piping shall be retested in accordance with the requirements of paragraph 1 above.
 "3. Emergency Gas Piping Inspection. When the degree of urgency dictates a test of a shorter duration, the Building Official may approve an air pressure test of one hundred (100) psig for a period of at least fifteen (15) minutes."
- U. APPENDIX B, Section 2212: Change the last sentence of the first paragraph to read:
 "Approved PE pipe and plastic fitting shall be used in exterior buried piping systems."
- V. APPENDIX B, Section 2213. (a): Add:
 "Metallic or plastic bushings shall not be used. Exterior buried joints shall be made with approved plastic fittings."
- W. APPENDIX B, Section 2213. (b): Add:
 "Gas piping installed underground shall have a minimum of eighteen inches (18") of earth cover and shall not be in a ditch with any other utility line."
 "c as piping shall enter and exit the building at a point at least six inches (6") above finish grade. Where exterior buried gas piping passes under a paved area adjacent to the building, the pavement adjacent to the riser will be removed to provide at least two inches (2") of clearance and a vent installed.
 "Gas piping must be welded if any of the following conditions exist: (1) It is concealed within the structure. (2) It is located in an above ceiling air plenum. (3) The design operating pressure exceeds five pounds per square inch gage (5 psig). Welded gas piping shall be marked with the stamp of the certified welder on a filed spot on the building gas piping inlet."
- X. APPENDIX B, Section 2213. (d): Delete.
- Y. APPENDIX B, Section 2213. (j): Delete and Insert:
 (j) "Barbecues or Fireplaces. Gas piping is not permitted on interior barbecues or fireplaces. Gas may be piped to a listed gas fireplace."
- Z. APPENDIX B, Section 2213. (m): Delete and Insert:
 "(m) Directional Changes. Changes in direction of gas pipe may be made by the use of fittings, factory bends or field bends.
 "Metallic Pipe: (1) Bends shall be made only with bending equipment and procedures especially intended for that purpose."

- Z) (2) All bends shall be smooth and free from buckling, cracks or other evidence of mechanical damage.
 (3) The longitudinal weld of the pipe shall be near the neutral axis of the bend.
 (4) Pipe shall not be bent through an arc of more than ninety (90) degrees.
 (5) The inside radius of a bend shall be not less than six (6) times the outside diameter of the pipe.

"Plastic Pipe: (1) Plastic pipe may be bent provided the pipe is not damaged and the internal diameter of the pipe is not effectively reduced.

(2) The radius of the inner curve of such bends shall not be less than twenty (20) times the outside diameter of the pipe.

(3) When the piping manufacturer specifies the use of special bending equipment or procedures, such equipment or procedures shall be used."

AA. APPENDIX B, Section 2213. (o): Add:

"(o) Electrical Bonding and Grounding: Each above-ground portion of a gas piping system upstream from the appliance shutoff shall be electrically continuous and bonded inside the structure to any grounding electrode, as defined by the National Electrical Code, ANSI/NFPA 70. Gas piping shall not be used as a grounding electrode."

AB. APPENDIX B, Section 2214: Add Exceptions 8, 9, and 10:

"8. Connectors shall be of the shortest suitable length and have no bends or turns in excess of one hundred eighty (180) degrees.

"9. When connectors are used to connect a fixed appliance, the piping from the control valve to the outside of the case shall be rigid.

"10. The rigid gas piping supplying the connector shall be solidly supported within two feet (2') of the joint between piping and connector."

AC. APPENDIX B, Section 2215: Add:

"Each liquefied petroleum gas installation shall be limited to gas container(s) not to exceed a total aggregate water capacity of two thousand (2,000) gallons. Small containers under one

- AC) hundred twenty-five (125) gallons total aggregate water capacity shall not be manifolded together except for trailers or campers less than forty feet (40'). In these cases the containers shall be tongue or locker mounted and have a total aggregate water capacity not exceeding forty (40) gallons.

"Containers shall be located with respect to buildings or lines of adjoining property which may be built upon in accordance with the following table:

CONTAINER CAPACITY (U.S. Gallons)	MINIMUM DISTANCE (Feet)
Less than 100.....	5
100 to 500.....	10
501 to 1200.....	25
Over 1200.....	50

"Containers shall be located no closer than 10 feet from the nearest street line or sidewalk."

"Containers located in areas such as alleys, driveways, or other areas where they may be subject to physical damage by vehicles shall be protected." (Ord. 86-157)

16-2-204: **APPLICATION:** This Part 2 shall apply to every building or structure within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-205: **INTERPRETATION:** This Part 2 shall be interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulations contained herein. Article and section headings of this Part 2 and adopted Uniform Mechanical Code, shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of provisions of any article or section thereof. (Ord. 86-157)

16-2-206: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-157)

CHAPTER 16 BUILDING
ARTICLE 2 BUILDING CODES
PART 3 UNIFORM SIGN CODE

SECTION:

16-2-301: Short Title
 16-2-302: Code Adopted by Reference
 16-2-303: Additions and Modifications
 16-2-304: Application
 16-2-305: Interpretation
 16-2-306: Sale of Copies

16-2-301: **SHORT TITLE:** This Part 3 may be known and cited as the Uniform Sign Code. (Ord. 86-157)

16-2-302: CODE ADOPTED BY REFERENCE:

Pursuant to title 31, article 16, part 2, C.R.S., as amended, there is hereby adopted by reference the Uniform Building Code, Volume V, Signs, of the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, 90601, 1985 Edition. Three (3) copies are now filed in the office of the Clerk of the City, and may be inspected during regular business hours. The above Code is being adopted as if set out at length. (Ord. 86-157)

16-2-303: ADDITIONS AND MODIFICATIONS:

The said adopted Code is subject to the following additions and modifications:

- A. Section 103(c). Appeals. Delete the first paragraph and substitute the following:

“As provided under Section 16-1-105 of this Code.”

- B. Section 401(a) General. Add a third paragraph:

“Nonconstrained signs having a wind moment at the base of seventy-five thousand (75,000) foot pounds or more shall be designed by or under direct supervision of an engineer registered in the State of Colorado. All plans and drawings submitted for the purpose of obtaining a building permit shall bear the seal of said engineer. (Ord. 86-157)

16-2-304: **APPLICATION:** This Part 3 shall apply to every building or structure within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-305: **INTERPRETATION:** This Part 3 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulations contained herein. Article and section headings of this part 3 and the adopted Uniform Sign Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of the provisions of any article or section thereof. (Ord. 86-157)

16-2-306: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 2 BUILDING CODES

PART 4 UNIFORM PLUMBING CODE

SECTION:

16-2-401: Short Title
 16-2-402: Code Adopted by Reference
 16-2-403: Additions and Modifications
 16-2-404: Application
 16-2-405: Interpretation
 16-2-406: Sale of Copies

16-2-401: **SHORT TITLE:** This Part 4 may be known and cited as the Uniform Plumbing Code. (Ord. 86-157)

16-2-402: CODE ADOPTED BY REFERENCE:

Pursuant to title 31, article 16, part 2, C.R.S., as amended, there is hereby adopted by reference the Uniform Plumbing Code of the International Plumbing and Mechanical Officials, 5302 Alhambra Avenue, Los Angeles, California 90032, 1985 Edition. Three (3) copies of each are now filed in the office of the Clerk of the City and may be inspected during regular business hours. The above Code is being adopted as if set out at length, to include the IAPMO Installation Standards, save and except the following:

- A. Part One Administration.
- B. Chapter 12 (Fuel gas piping).
- C. Chapter 13 (Water heaters and vents).
- D. Appendix I (Private sewage disposal systems). (Ord. 86-157)

16-2-403: ADDITIONS AND MODIFICATIONS:

The said adopted Code is subject to the following additions and modifications:

- A. Section 121. Add:

“(d) A trough urinal is a multi-stationed urinal so constructed that its trap is located below the floor.”

- B. Table A-PLUMBING MATERIAL STANDARDS:

“ABS-PVC piping and fittings shall be a minimum of schedule 40.”

- C. Section 310. Add:

“(h) The penetration of supply and return air ducts or plenums by drainage, waste, and vent piping shall be as set forth in the Mechanical Code or as otherwise approved by the Building Official.”

- D. Section 315. Delete (b) and insert:

“(b) All piping in connection with a plumbing system shall be so installed that piping or connections will not be subject to undue strains or stresses and provisions shall be made for expansion, contraction, and structural settlement. No piping shall be directly embedded in concrete, masonry walls, or footings. No structural member shall be seriously weakened or impaired by cutting or notching. Piping passing through concrete, masonry walls, or footings shall be properly sleeved.

“Notches on the ends of joists shall not exceed one-fourth ($\frac{1}{4}$) the joist depth. Holes bored in joists shall not be within two inches (2”) of the top or bottom of the joist and the diameter of any such hole shall not exceed one-third ($\frac{1}{3}$) the depth of the joist. Notches in the top or bottom of joists shall not exceed one-sixth ($\frac{1}{6}$) the depth and shall not be located in the middle one-third ($\frac{1}{3}$) of the span.

“In exterior walls and bearing partitions, any wood stud may be cut or notched to a depth not exceeding twenty-five percent (25%) of its width. Cutting or notching of studs to a depth not greater than forty percent (40%) of the width of the stud is permitted in nonbearing partitions supporting no loads other than the weight of the partition.

“A hole not greater in diameter than forty percent (40%) of the stud width may be bored

- D) in any wood stud. Bore holes not greater than sixty percent (60%) of the width of the stud are permitted in nonbearing partitions or in any wall where each bored stud is doubled provided not more than two such successive doubled studs are so bored.

"In no case shall the edge of the bored hole be nearer than five-eighths ($\frac{5}{8}$) of an inch to the edge of the stud. Bore holes shall not be located at the same section of the stud as a cut or notch.

"Stud partitions containing plumbing pipes shall be so framed and the joists underneath so spaced as to give proper clearance for the piping. Where a partition containing such piping runs parallel to the floor joists underneath such partitions shall be doubled and spaced to permit the passage of such pipes and shall be bridged.

"Where plumbing pipes are placed or partly in a partition, necessitating the cutting of the soles or plates, a metal tie not less than one-eighth ($\frac{1}{8}$) inch thick and one and one-half ($1\frac{1}{2}$) inches wide shall be fastened to the plate across and to each of the openings with not less than four 16d nails.

"Good workmanship is required in all cases. Studs having holes or notches larger than required to accommodate the piping shall be replaced. Where holes larger than indicated above are required to accommodate the piping in nonbearing studs, such studs may be reinforced by the addition of one-eighth inch by one and one-half inch ($\frac{1}{8}$ " x $1\frac{1}{2}$ "') steel straps fastened to each side of the stud with four (4) 16d nails. Where holes or notches larger than allowed above are required to accommodate the piping in bearing studs, engineering calculations shall be submitted in all cases to show that the stresses allowed are not exceeded under the design loads."

- E. Section 315. Add:

"(g) Traps may not be located in any unheated space or cantilevered. Where a fixture is located over a cantilever, the trap for that fixture shall be installed meeting the following requirements:

"1) The trap must be located immediately inside the heated space of the building.

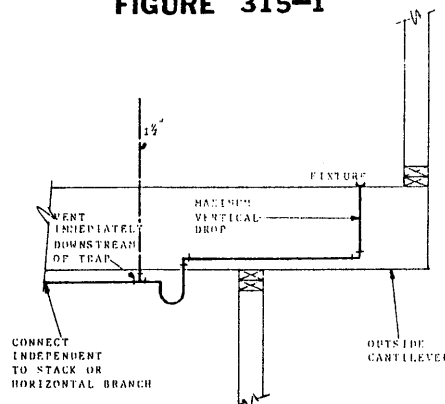
- E) "2) A separate vent for the trap must be installed immediately downstream of the trap.

"3) No fixture may wet vent this trap.

"4) This trap may not be used as a wet vent for another fixture.

"5) The maximum vertical drop shall not take place at the trap inlet."

FIGURE 315-1



- F. Section 318 (b):(3) Change: 10' to 5'.

- G. Section 405 (b): Add to the last sentence:

"applicable to pumped discharge appliances only".

- H. Table 4-3: Correct to read:

"Maximum fixture units on one and one-half ($1\frac{1}{2}$) vertical drain pipe is three (3).

Maximum fixture units on one and one-half ($1\frac{1}{2}$) horizontal drain pipe is two (2)".

Amend footnote four (4) to read:

"Only four (4) water closets or six (6) unit traps allowed on any vertical pipe. No more than two (2) water closets on any three inch (3") building drain or horizontal branch".

- I. Table 4-1: Place a double asterisk by "floor drains" and add as a second footnote (**) the following:

"(**) A backwater valve shall be required on all floor drains located in a concealed space such as a crawl space, for maintaining its water seal. Floor drains shall be accessible."

J. Table 4-1. Amend to read:

“(a) Sinks or dishwashers (residential) (two inch (2'') minimum waste) one (1) one and one-half inch (1½'') trap: two (2) fixture units.

“(b) Sinks and dishwashers (residential) (two inch (2'') minimum waste) one (1) two inch (2'') trap: four (4) fixture units.

K. Section 505. Add:

“(g) The vent for a water closet (wet or dry) may be taken off the vertical stub to the water closet if made through a combo or a Y and a one-eighth (⅛) bend fitting”.

L. Section 613. Delete the word:

“Vertical”.

M. Section 613 (a). Delete and insert:

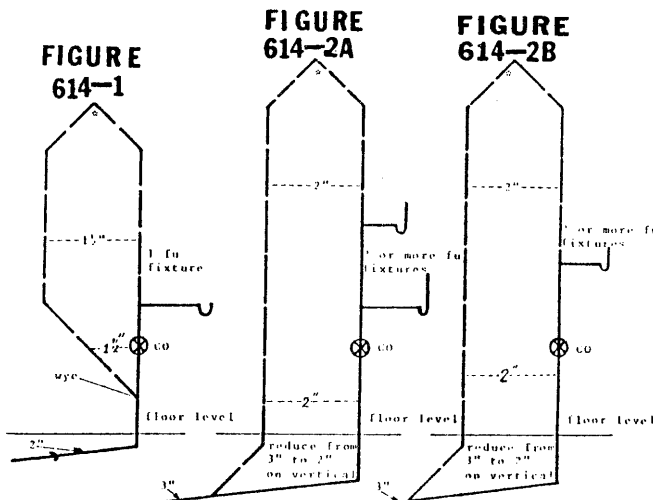
“(a) Wet venting is allowed in drainage piping receiving the discharge from the trap arm of one (1) and two (2) fixture unit fixtures. All wet vented fixtures shall be on the same floor level: Each wet vented section shall be a minimum of two inches (2'') and not more than four (4) fixture units shall be drained into any two inch (2'') wet vented section. The fixture units draining into a three inch (3'') or larger wet vented section shall be regulated by Table 4-3.”

N. Section 613 (b). Delete the word:

“Vertical”.

O. Section 614. Delete the second paragraph and add:

“Venting for island sinks or similar fixtures shall be done in accordance with either Figure 614-1 or Figure 614-2 A or B.”



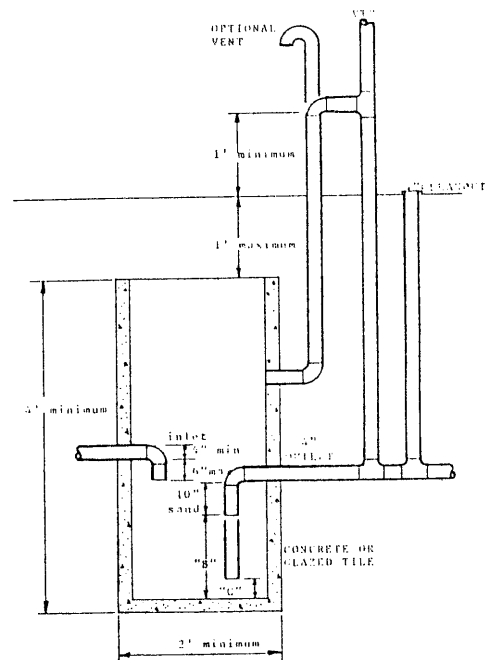
P. Section 615. Add:

“(h) One (1) floor drain may be installed in a structure using an approved combination waste and vent system.”

Q. Section 708 (b). Add:

Figure of sand trap or a grease interceptor.”

FIGURE OF A SAND TRAP OR GREASE INTERCEPTOR



Note #1. The lid opening into a sand trap or grease interceptor shall be accessible.

Note #2. Location of sand trap or grease interceptor depends on fire regulations and other considerations.

Note #3. If a gas tight cover is provided, the trap may be installed inside of the structure.

Note #4. Dimension B is a minimum of two feet (2') for sand traps only.

Note #5. Dimension C is a maximum of eighteen inches (18'') for combination oil and sand traps.

Note #6. Outlet must connect to the sanitary sewer or other approved point of disposal.

- Q) Note #7. Inlet and outlet for oil and sand traps must be a minimum of four inches (4").

Note #8. Minimum capacity of oil and sand interceptor shall be six (6) cubic feet, plus one (1) cubic foot for each vehicle washed during a twenty four (24) hour period.

Note #9. This drawing can be typical for a grease interceptor if dimension C is six inches (6"). Capacities of interceptors shall be as specified in Table 7-2 of the 1985 Uniform Plumbing Code, page 59.

Note #10. Vents for sand and grease traps must be sized as per Table 4-3, but in no case less than two inches (2").

Note #11. The inlet to the sand trap must be four inches (4") higher than the outlet.

- R. Section 708 (e). Location: Add to paragraph:

"Where the interceptor is located outside the building, the plumbing between the building waste piping and the interceptor shall comply with the requirements of the applicable sanitation district in which the interceptor is being installed.

- S. Add Section 714. Special Interceptors:

"(a) Laundries. Commercial laundries being those operated as facilities for the general public and as a business for nonresidential use, shall be equipped with an interceptor installed as per figure 714-1 or 714-2.

FIGURE 714-1

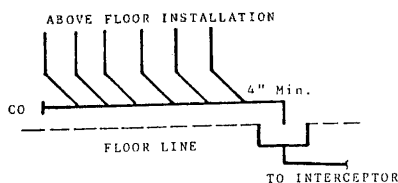
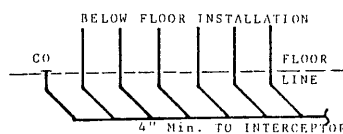


FIGURE 714-2



"(b) Privage garages. Private garages (M Occupancy) that have drains shall be required to install an approved interceptor. No drain containing a "P" trap shall be installed in any garage."

- T. Section 907. Add:

"(g) Access to Toilets and Other Facilities.

- T) "Access to water closets. Each water closet stool shall be located in a clear space not less than thirty inches (30") in width and have a clear space in front of the water closet stool of not less than twenty four inches (24").

"Where toilet facilities are provided on any floor where access by the physically handicapped is required by Table 33-A of the UBC, at least one such facility for each sex or a separate facility usable by either sex shall comply with requirement of this section. Except in dwelling units and guest rooms, such facilities must be available to all occupants and both sexes. All doorways leading to such toilet rooms shall have a clear and unobstructed width of not less than thirty two inches (32"). Each such toilet room shall have the following:

"1) A clear space of not less than forty four inches (44") on each side of the doors providing access to the toilet rooms. This distance shall be measured at right angles to the face of the door when in the closed position. Not more than one door may encroach into the forty four inch (44") space.

"2) Except in dwelling units and guest rooms, a clear space within the toilet room of sufficient size to inscribe to a circle with a diameter not less than sixty inches (60"). The door in any position may encroach into this space by not more than twelve inches (12").

"3) A clear space not less than forty two inches (42") wide and forty eight inches (48") long in front of at least one (1) water closet stool for the use of the handicapped. When such water closet stool is within a compartment, entry to the compartment shall have a clear width of thirty two inches (32") when located at the end of the compartment and a clear width of thirty four inches (34") when located at the side of the compartment. A door, if provided, shall not encroach into the required space in front of the water closet. Except for door swing, a clear unobstructed access not less than forty eight inches (48") in width shall be provided to toilet compartments designed for use by the handicapped.

"4) Grab bars near each side or one side and the back of the toilet stool securely attached thirty three inches (33") to thirty six inches (36") above and parallel to the floor. Grab bars at the side shall be forty two inches (42") long

- T) with the front end positioned twenty four inches (24") in front of the water closet stool. Grab bars at the back shall not be less than twenty four inches (24") long for room installations and thirty six inches (36") long where the water closet is installed in a stall. Grab bars shall have an outside diameter of not less than one and one-fourth inches (1 1/4") and shall provide a clearance of one and one-half inches (1 1/2") between the grab bar and adjacent surface. Grab bars need not be provided in Group R Division 1 apartment houses.

"5) When it can be established that the facilities are usable by a person in a wheel chair, dimensions other than those above shall be acceptable.

"6) LIMITED HANDICAP REQUIREMENTS: Toilet facilities in H occupancies and toilet facilities in B occupancies with an occupant load of fifty (50) persons or less may comply with the following: In toilet rooms without compartments a clear and unobstructed access of not less than thirty two inches (32") nominal and clear space, unobstructed by door swing, grab bars and similar items of not less than thirty two inches (32") shall be provided in front of the toilet stool. Grab bars shall be provided as required in item four (4) above."

- U. Section 907: Add:

"(H) Access to Lavatories, Mirrors and Towel Fixtures.

"In other than Group R, Division 3 Group M, Group R Division 1 apartment houses and Group B Division 2 and 4 storage occupancies, toilet room facilities shall be as follows:

"1) Except for the projection of bowls and waste piping, a clear unobstructed space of thirty inches (30") in width, twenty nine inches (29") in height and seventeen inches (17") in depth shall be provided under at least one (1) lavatory.

"2) Where mirrors are provided, at least one shall be installed so that the bottom of the mirror is within forty inches (40") of the floor.

"3) Where towel and disposal fixtures are provided, they shall be accessible to the physically handicapped and at least one shall be within forty inches (40") of the floor."

- V. section 907:

"(i) Water Fountains.

"1) Where water fountains are provided for the physically handicapped at least one shall have a spout within thirty three inches (33") of the floor and shall have up-front, hand-operated controls. When fountains are located in an alcove, the alcove shall be not less than thirty two inches (32") in width."

- W. Section 910. Delete and insert:

"Each building shall be provided with sanitary facilities as prescribed by Appendix C of this Code."

- X. Section 1003. Add to first paragraph:

"All devices installed for the prevention of backflow shall be as required by the serving water supplier and shall be accessible for repair and/or testing."

- Y. Section 1004 (a). Add:

"All plastic cold water distribution piping outside of a building shall be installed with a fourteen (14) gauge tracer wire."

- Z. Section 1007 (e). Delete and insert:

"(e) Relief valves located inside a building shall be provided with a full size drain of approved material and fittings, and shall extend from the valve to an approved location with the end of the pipe not more than eight inches (8") or less than six inches (6") above grade and pointing downward. No part of such drain shall be trapped and the terminal end of the drain pipe shall not be threaded. No part of the drain pipe shall be run to the outside of the structure."

- AA. Section 1008 (a). Change wording in last paragraph to read:

"All water service piping shall be installed at a minimum of five feet (5') below grade."

- AB. Section 1106. Add Exception:

"All plastic piping shall be laid at not less than one-fourth inch (1/4") slope per foot."

AC. APPENDIX C. Add:

"TYPE OF BUILDING OCCUPANCY.

Others (Colleges, Universities, Adult Centers, etc.)

Water closets - Male, 1 per 40; Female, 1 per 40.

Urinals - Male, 1 per 40.

Lavatories - 1 or (19)

Drinking fountains - 1 for each 75 persons

Other fixtures - 1 stop sink per floor"

FOOTNOTES TO APPENDIX C

1) Every building or portion thereof where persons are employed shall be provided with at least one (1) water closet. Separate facilities shall be provided for each sex when the number of employees exceed four (4), and both sexes are employed. (Minimum employee count shall be based on square foot of the space.) Where more than one (1) water closet is installed in a room, they shall be separated by an approved partition wall. Such toilet facilities shall be located either in such building or conveniently in a building adjacent thereto on the same property.

2) Where urinals are provided for the women, the same number shall be provided as for men. Urinals for women may be installed as an auxiliary or supplemental fixture. The fixture shall not be considered as a substitute for water closets: in all, the required minimum number of water closets shall be provided. The urinal for women shall be enclosed with a water closet compartment and a door to insure privacy in use.

3) The figures shown are based upon one fixture being the minimum required for the number of persons indicated or fraction thereof.

4) Twenty four lineal inches (24") of wash sink or eighteen inches (18") of circular basin, when provided with water outlets for such space, shall be considered equivalent to one (1) lavatory. When there is exposure to skin contamination with poisonous, infectious, or irritating materials, provide one (1) lavatory for each five (5) persons.

AC) 5) Drinking fountains or bubblers shall not be installed in toilet rooms.

6) Facilities shall be located convenient to the occupied area being served and in no case more than two hundred feet (200') away on the same level or more than one (1) floor removed from the occupied area.

7) Every toilet room shall have at least fourteen (14) square feet of floor area with a minimum width of three feet (3'), and at least one hundred (100) cubic feet of volume for each water closet and each urinal in addition to adequate space required for other plumbing fixtures or equipment installed within the toilet rooms. A water closet compartment in a toilet room shall not be less than thirty inches (30") in width with a clearance of not less than twenty four inches (24") between the front of the water closet and the front of the compartment.

8) If water closets to individual patient rooms or ward rooms replace centralized facilities, enclosed water closets shall be directly connected to not more than two (2) patient rooms or ward rooms serving not more than a total of four (4) beds.

9) Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

10) Any single retail establishment or group of retail establishments located on the same property or with an occupant load of five hundred (500) or more shall be required to have for the public in addition to the individual shop requirements for the employees, a minimum of two (2) water closets, one (1) urinal, one (1) lavatory for the men, and three (3) water closets and one (1) lavatory for the women for the first one hundred (100) persons of each sex. For each additional five hundred (500) persons or fraction of each five hundred (500), an additional water closet and lavatory shall be added.

11) Service sinks shall not be installed in toilet rooms.

12) This chart shall include the total occupant load of the building which includes both the public and the employees. The employees and

AC) the public may use the same toilet facilities if the facilities are conveniently accessible for both the public and the employees. Conveniently accessible shall mean that the public shall not pass through the employee area and the employees shall not pass through the public area.

13) Urinals may be substituted for water closets on the basis of one (1) to one (1), but the number of urinals may not be greater than one-half ($\frac{1}{2}$) the total fixtures plus one (1) urinal.

14) For retail and wholesale establishments, the occupant load is based only on employees. If the number of employees is not known, the employees are determined by taking the total occupied area and dividing by six hundred (600). Customers shall be permitted to use the facilities provided for the employees.

15) Drive-in restaurants shall mean there are no sitting facilities within the building for consuming food.

16) Construction sites are not required to have permanent toilet facilities.

17) In residences and buildings intended for human occupancy, hot water shall be supplied to all plumbing fixtures and equipment used for bathing, washing, culinary purposes, cleaning laundry, or building maintenance.

18) In assembly occupancies, where peak use of plumbing facilities may occur, the number of plumbing fixtures required shall be doubled.

19) In assembly occupancies, there shall be a minimum of one (1) lavatory for every two (2) water closets and or urinals or fraction thereof.

20) Occupant loads are based on Table C-1.

TABLE C-1

USE	OCCUPANT LOAD FACTOR
1) Aircraft hangers (no repair).....	1000
2) Auction rooms.....	15
3) Assembly areas, concentrated use (without fixed seating).....	15
A) Auditoriums	
B) Bowling alleys (assembly areas)	
C) Churches and chapels	
D) Dance floors	
E) Lodge rooms	

F) Reviewing stands	
G) Stadiums	
4) Assembly areas (less concentrated use)	15
A) Drinking establishments	
B) Dining establishments	
C) Lounges	
D) Conference rooms	
E) Exhibit rooms	
F) Gymnasiums	
5) Children's homes and homes for the aged.....	100
6) Class rooms.....	20
7) Dormitories	100
8) Hospitals, sanitariums, and nursing homes.....	100
9) Hotels and apartments.....	400
10) Commercial kitchens.....	400
11) Library reading rooms.....	100
12) Mechanical equipment rooms.....	600
13) Nurseries for children (day care).....	70
14) Offices.....	200
15) School shops and vocational rooms.....	100
16) Skating rinks	
A) Skating area.....	100
B) Deck area.....	30
17) Retail stores	
A) Basement.....	40
B) Ground floor.....	30
C) Upper floors.....	50
D) Employees only.....	600
18) Swimming pools	
A) Pool area.....	30
B) Deck area.....	30
19) Warehouses	600
20) Structures not listed above shall be determined by the Building Official.	

AD. Add Appendix J. Circuit and Loop Vented Systems:

"A horizontal branch, soil, or water pipe to which two (2) or more water closets (except blow-out type), pedestal urinals, shower stalls, or floor drains are connected in a battery, may be vented by a circuit or loop vent.

"When lavatories or similar fixtures discharge above such branches, each vertical branch shall be provided with a continuous vent which may be connected to the circuit or loop vent of the battery.

"The circuit or loop vent of a battery drainage system shall be installed vertically in front of the last upstream fixture. In addition, lower floor branches serving more than three (3) water closets shall be provided with a relief vent taken off vertically in front of the fixture connection.

AD) "No more than eight (8) water closets may be connected to a battery drainage system. The fixture unit valve for all fixtures shall be as listed in Table 4-1 and 4-2. The horizontal branch for its full length to the farthest fixture shall be uniformly sized as listed in Table 4-3, based on the total number of fixtures.

"The vent of a battery drainage system shall be sized for the fixture unit demand of the battery system according to Table 4-3 based on the total number of fixtures. The relief vent may be wet vented with a fixture drained vertically into the battery drainage system. Such vent shall be the same size as the circuit vent it intersects.

"All vents shall rise vertically to six inches (6") above the flood level of the highest fixture on the system before being offset horizontally or tying into another vent."

FIGURE J-1

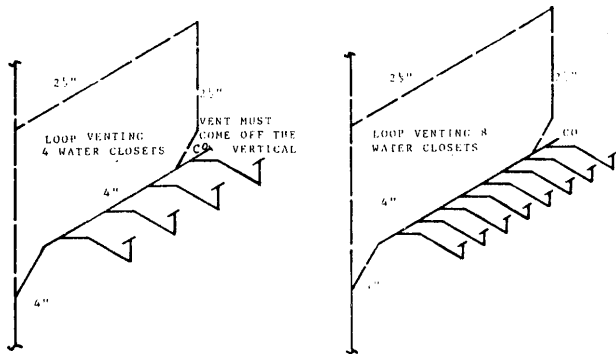
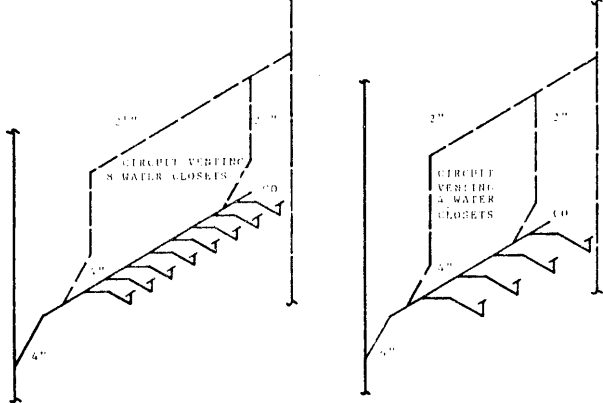
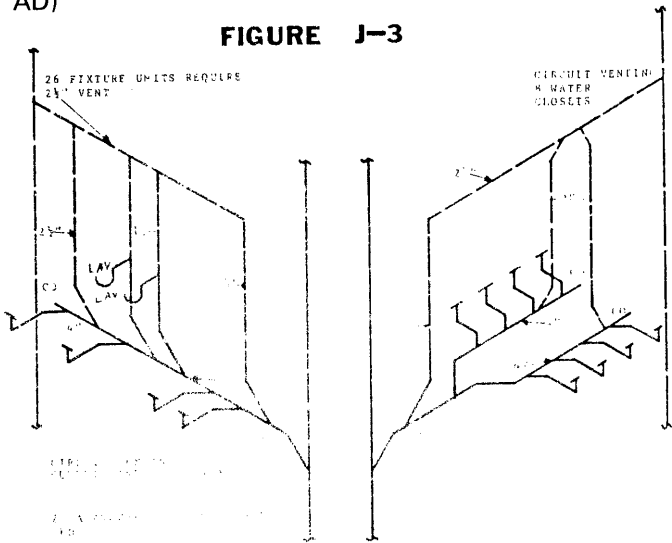


FIGURE J-2



AD)

FIGURE J-3



KEY TO BATTERY VENT SYSTEM

- | | |
|--------------------------|----------------------------|
| R.V. = Relief Vent | C.V. = Circuit Vent |
| D. = Horizontal Drainage | L. = Loop Vent |
| S.V. = Stack Vent | S.S. = Soil or Waste Stack |
| V.S. = Vent Stack | W.C. = Water Closet |

AE. Delete entire Appendix J and insert the following:

APPENDIX J

"A horizontal branch, soil or waste pipe, to which two (2) or more water closets (except blow-out type), pedestal urinals, shower stalls, or floor drains are connected in a battery, may be vented by a circuit or loop vent.

"When lavatories or similar fixtures discharge above such branches, each vertical branch shall be provided with a continuous vent which may be connected to the circuit or loop vent of the battery.

"The circuit or loop vent of a battery drainage system shall be installed vertically in front of the last upstream fixture. In addition, lower floor branches serving more than three (3) water closets shall be provided with a relief vent taken off vertically in front of the fixture connection.

"No more than eight (8) water closets may be connected to a battery drainage system. The fixture unit value for all fixtures shall be as listed in Table 4-1 and 4-2. The horizontal branch for its full length to the farthest fixture shall be uniformly sized as listed in Table 4-3, based on the total number of fixtures.

AE) "The vent of a battery drainage system shall be sized for the fixture unit demand of the battery system according to Table 4-3 based on the total number of fixtures. The relief vent may be wet vented with a fixture drained vertically into the battery drainage system, such vent shall be the same size as the circuit vent it intersects.

"All vents shall rise vertically to six inches (6''), (152.4mm), above the flood level of the highest fixture on the system." (Ord. 86-157)

16-2-404: **APPLICATION:** This Part 4 shall apply to every building or structure either within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-405: **INTERPRETATION:** This Part 4 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulations contained herein. Article and Section headings of this Part 4 and adopted Uniform Plumbing Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, extent, or the provisions of any article or section thereof. (Ord. 86-157)

16-2-406: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-157)

CHAPTER 16 BUILDING
ARTICLE 2 BUILDING CODES
PART 5 ELECTRICAL CODE

SECTION:

16-2-501: Short Title
 16-2-502: Code Adopted by Reference
 16-2-503: Additions and Modifications
 16-2-504: Application
 16-2-505: Interpretation
 16-2-506: Sale of Copies

16-2-501: **SHORT TITLE:** This Part 5 may be known and cited as the National Electrical Code. (Ord. 84-282)

16-2-502: CODE ADOPTED BY REFERENCE:

Pursuant to Title 31, Article 16, Part 2, C.R.S. 1973, as amended, there is hereby adopted by reference the National Electrical Code of the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts, 02210, and the National Electrical Safety Code of the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017, 1984 Edition. Three (3) copies are now filed in the office of the Clerk of the City of Colorado Springs and may be inspected during regular business hours. The above Code is being adopted as if set out at length. (Ord. 84-282)

16-2-503: ADDITIONS AND MODIFICATIONS:

The said Code is subject to the following additions and modifications:

- A. Section 90-7. Add a third paragraph to this subsection: "Range stub of one-inch and a dryer stub of 3/4 inch conduit shall be installed in new or remodeled houses for future use. All stubs should go to the basement if accessible, if not, to attic, and must be left in a position where it can be reached for connection. All free-standing ranges are to be on 50 ampere circuits."
- B. Add a new Section: '90-9. Application to Existing Wiring.'

- B) "(a) When any additions, alterations or renewals of existing installations are made, that portion added, altered or renewed shall be made to conform with all requirements for new building except as provided hereafter in (b) and (c).

"(b) When more than 50 percent of the lineal footage of the wiring in any building is changed, the entire wiring installation in the building shall be made to conform with all the requirements for new buildings.

"(c) When more than 50 percent of the lineal footage of the wiring of any circuit is changed, the entire circuit shall be made to conform with all the requirements for new buildings.

"(d) When any part of a wiring installation has been disconnected due to the wiring having been damaged by fire, flood etc., altered by unauthorized persons, nature, calamity, or otherwise becoming a hazard, such installation may not be reconnected without inspection and approval by the Building Official.'

- C. Section 110-111. Add as last paragraph: "Building must be dried in before work is begun on electric system (ruff-in)."

- D. Section 210-22C. Add a second paragraph:

"A furnace installation shall be made on a separate circuit."

Add an exception: "EXCEPTION: A furnace service light may be on the same circuit."

- E. Section 210-52(a). Insert after the second paragraph:

"In all habitable unfinished areas, raceways will be provided for further finishing of the areas: or spare circuits will run to an accessible area. In all habitable unfinished areas of single family dwellings, where concrete walls exceeding four (4) feet in height are to be built, conduit and

- E) boxes must be installed in such walls prior to pouring of the concrete."
- F. Table 220-2(b). Add on second footnote to Table 220-2(a):

"For dwellings, Lighting Outlets. The number of outlets per circuit shall not exceed 8 on a 15 ampere circuit nor 10 on a 20 ampere circuit."

- G. Section 220-3(b)(1): Add as last paragraph:

"One separate circuit shall be installed for supplying power to a dishwasher and/or disposal.' See 210-22(a) as a basis.

- H. Section 230-28: Change first sentence of second paragraph to read: 'A mast type riser is required if the eave of the house is less than twelve feet (12') above the finished grade. It shall be of such construction and so supported that it will withstand the strain imposed by the service drop."

- I. Section 230-70. Add after first sentence: 'Disconnecting means shall be readily accessible. Readily accessible does not include cupboards, pantries, clothes closets, baths, bedrooms, normally locked rooms or stairways. Basements or cellars without grade access may be used on written approval of the Chief Electrical Inspector only. See readily accessible in Article 100, Definitions."

- J. Section 338-2. On multi-occupancy buildings, the service from meter to panels shall be in an approved raceway.

- K. Section 384-16(a). After paragraph one add:

"A main breaker or set of fuses must be provided in the panel or the building for services regardless of whether or not the serving utility provides the same."

- L. Section 545-1(a). Add:

"Any installations that are made by electrical contractors and/or electricians not licensed by the State of Colorado may require an examination fee as specified in Section 16-3-212B of this Code and be subject to investigation under that Section." (Ord. 84-282)

16-2-504: APPLICATION: This Part 5 shall apply to every building or structure either within or outside the corporate limits of the City, the use of which the City has jurisdiction an authority to regulate. (Ord. 84-282)

16-2-505: INTERPRETATION: This Part 5 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulations contained herein. Article and section headings of this Part 5 and adopted National Electrical Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof. (Ord. 84-282)

16-2-506: SALE OF COPIES: The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 84-282)

CHAPTER 16 BUILDING
ARTICLE 2 BUILDING CODES
PART 6 MODEL ENERGY CODE

SECTION:

16-2-601: Short Title
 16-2-602: Codes Adopted by Reference
 16-2-603: Additions and Modifications
 16-2-604: Application
 16-2-605: Interpretation
 16-2-606: Sale of Copies

16-2-601: **SHORT TITLE:** This Part 6 may be known and cited as the Model Energy Code. (Ord. 86-157)

16-2-602: CODES ADOPTED BY REFERENCE:

Pursuant to Title 31, Article 16, Part 2, C.R.S. 1973, as amended, there is hereby adopted by reference the Model Energy Code of the Council of American Building Officials, 1201 One Skyline Place, 5205 Leesburg Pike, Falls Church, Virginia 22041, 1986 Edition. The subject matter of the adopted standards include comprehensive provisions and standards regulating energy efficiency in design, construction, renovation, erection, enlargement, alteration, repair, conversion, occupancy, equipment and maintenance of certain nonresidential and residential buildings and structures for purpose of protecting the public health, safety and general welfare. Three (3) copies of each publication are now filed in the office of Clerk of the City and may be inspected during regular business hours. The above publications are being adopted as if set out at length. (Ord. 86-157)

16-2-603: ADDITIONS AND MODIFICATIONS:

The said adopted Code is subject to the following additions and modifications:

A. Add new Section 101.3.2.4:

"101.3.2.4 Renovation, alteration or repair to existing buildings.

A) "Any renovation, alteration or repair which results in, or is likely to result in fifty percent (50%) or greater increase in replacement value, as determined by the County Assessor, shall require such building or structure to conform to the following requirements:

"The combined thermal transmittance value (Uo) for the roof/ceiling shall not exceed that specified in Section 502.2.1.2 or 502.3.1.2 of this Code.

"Exterior joints around windows and door frame; openings between walls and foundations; openings at penetrations of utility services through walls, floors and roofs; and all other such openings in the building envelope shall be caulked, gasketed, weatherstripped or otherwise sealed against leakage in an acceptable manner; and

"If in the course of renovation, change of occupancy or use, the equipment identified in Section 503 through 505 of this Code is replaced, replacement equipment shall conform to the requirements specified in those Sections; or

"Computations submitted, stating that the total fossil fuel or electrical energy required in the renovated building through design utilization or nondepletable energy resources or otherwise, equals or is less than the total fossil fuel energy used if the building is renovated according to paragraph (1) above, shall be considered an acceptable alternative for conformance with the standards set forth in paragraph (1) above. Computations shall be considered acceptable when calculated by acceptable engineering procedures. Where state statutes require design by an architect or engineer, the statement of compliance shall be prepared by an architect or engineer."

B. Section 106. Delete.

C. Add new Section 107:

"107 ADMINISTRATIVE AND APPEAL PROCEDURES.

"Administrative and appeal procedures set forth in Section 16-1-105 of the Code of the City of Colorado Springs shall be applicable and followed in the administration of this Code."

D. Section 302.1. Amended by the inclusion of the following temperatures:

"Winter Design Dry-Bulb	2°F.
Summer Design Dry-Bulb	88°F.
Summer Wet-Bulb	57°F.
Degree Days Heating	6423
Degree North Latitude	38°—49'

E. Table No. 5-1: Add the following specific values:

"Walls, Heating or Cooling, TYPE A1 BUILDINGS, Uo-0.18.

"Walls, Heating or Cooling, TYPE A2 BUILDINGS, Uo-0.265.

"Roof/Ceiling, Heating or Cooling, TYPE A1 & A2 BUILDINGS, Uo-0.04.

"Floors over unheated spaces, Heating or Cooling TYPE A1 & A2 BUILDINGS, Uo-0.08.

"Heated slab on grade, Heating TYPE A1 & A2 BUILDINGS, R Value - 7.4.

"Unheated slab on grade, heating, TYPE A1 and A2 BUILDINGS R Value - 5.2."

F. Table No. 5-2: Add the following specific values:

"Walls, 3 stories or less, Heating, Uo 0.265.

"Walls, 3 stories or less, Cooling, OTTVw 33.

"Walls, 3 stories or less, Cooling, SF 126.

"Walls, over 3 stories, Heating Uo 0.32.

"Walls, over 3 stories, Cooling OTTVw 33.

"Walls, over 3 stories, Cooling SF 126.

"Roof/Ceiling, Heating or Cooling, Uo 0.072.

F) "Roof/Ceiling, Cooling OTTVr 8.5.

"Floors over unheated spaces, Heating or Cooling, Uo 0.08.

"Heated slab on grade, Heating or Cooling, R Value 7.4.

"Unheated slab on grade, Heating or Cooling, R Value 5.2'.

G. Delete paragraph 504.5.3.

H. Delete paragraph 504.8.

I. Delete last subparagraph of paragraph 604.1.2.3 starting with "Time clocks shall..."

J. Delete paragraph 604.4. (Ord. 86-157)

16-2-604: **APPLICATION:** This Part 6 shall apply to every building or structure within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-605: **INTERPRETATION:** This Part 6 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulations contained herein. Article and section headings of this Part 6 and adopted publications shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or extent of the provisions of any article or section thereof. (Ord. 86-157)

16-2-606: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-157)

CHAPTER 16 BUILDING
ARTICLE 2 BUILDING CODES
PART 7 MOBILE HOME CODE

SECTION:

16-2-701: Short Title
 16-2-702: Permits Required
 16-2-703: Structural Connections
 16-2-704: Heating
 16-2-705: Electrical
 16-2-706: Plumbing
 16-2-707: Additions and Accessory Structures
 16-2-708: Setbacks
 16-2-709: Application
 16-2-710: Interpretation

16-2-701: **SHORT TITLE:** This Part 7 may be known and cited as the Mobile Home Code. (Ord. 86-157)

16-2-702: PERMITS REQUIRED:

- A. Mobile homes as defined in Section 14-1-109 of this Code and manufactured homes as defined in Section 14-1-109 of this Code and certified by the Department of Housing and Urban Development (hereinafter "HUD certified manufactured homes") located in the mobile home park zone as established by Section 14-3-901 of the City Code, shall be issued special permits by the Building Official, subject to requirements of the applicable building codes in effect at the time of the application. Such permits shall be revocable. The special permit shall apply only to the mobile home or HUD certified manufactured home for which it was obtained and shall not run with the land as a permitted use. Prior to the occupation of any mobile home or HUD certified manufactured home in a mobile home park, the mobile home or manufactured home shall be inspected by the Building Department and shall be in conformance with the requirements of this Part 7. Mobile homes and HUD certified manufactured homes located in mobile home parks shall not have permanent foundations, but shall be anchored in accord with Section 16-2-703.

- B. HUD certified manufactured homes and manufactured homes as defined in C.R.S. 31-23-301(5)(a)(1), as amended, certified by the Division of Local Housing of the State of Colorado in accord with C.R.S. 24-32-703(3), as amended and 8 CCR 1302-3 (Factory Built Housing Construction Certification Code of Colorado) shall be permitted in the manufactured home subdivision zone of the City as established in Section 14-3-1001 et seq. of the City Code. Prior to locating these structures in a mobile home subdivision, a building permit for each structure must be obtained and these homes shall be anchored as set forth in Section 16-2-703 below or placed on permanent foundations. If they are to be placed on a permanent foundation, such permanent foundation system shall be designed to comply with all applicable local standards by an engineer licensed to practice in the State of Colorado.

- C. State of Colorado certified manufactured homes as set out in subsection (B) above are allowed in all other residential zones of the City of Colorado Springs as set out in Chapter 14 (Zoning) of the City Code. These homes shall be placed on a permanent foundation designed to comply with all applicable local standards by an engineer licensed to practice in the State of Colorado. Prior to locating state certified manufactured homes in these residential zones, a building permit from the Regional Building Department must first be obtained."

16-2-703: STRUCTURAL CONNECTIONS:

- A. Anchoring and Blocking Systems.
1. Anchoring System: All mobile homes shall be anchored to the pad or ground by an approved anchoring system. The anchoring system shall consist of no less than four (4) approved tie downs for each unit (two [2] pairs) but shall require two (2) additional for each twenty feet (20') or portion thereof over fifty feet (50') in length. Each anchor shall be capable of withstanding a three thousand five hundred (3,500) pound force along its axis.

- A) 2. Blocking System: Blocking for support shall be as follows:

Bottom: 2—4" x 8" x 16" solid concrete blocks.

Intermediate: 8"x 8" x 16" hollow concrete blocks.

Top: 4" x 8" x 16" solid concrete blocks or 2" x 8" x 16" wood (nominal).

Shims (wood) may be used in conjunction with the above units but only to an accumulative depth of two inches (2") (nominal).

3. Axles and Tongues: Axles shall not be removed from mobile homes. Tongues may be removed and stored with the mobile home.

- B. Foundation Systems: Manufactured homes which are in compliance with the Manufactured Housing and Safety Standards Act of 1974, as amended, may be installed on permanent foundation systems in mobile home subdivisions or on privately owned tracts of land on which zoning regulations permit mobile homes. Such permanent foundations systems shall be designed to comply with all applicable local standards by an engineer licensed to practice in the State of Colorado. (Ord. 86-157)

16-2-704: HEATING: All mechanical systems, to include gas appliances and piping shall conform to the requirements of Article 2, Part 2, Uniform Mechanical Code. (Ord. 86-157)

16-2-705: ELECTRICAL: All electrical connections shall be compatible with the services provided. Any modifications shall be performed by properly licensed persons and inspected prior to connections. (Ord. 86-157)

16-2-706: PLUMBING: All plumbing shall conform to the requirements of Article 2, Part 4, Uniform Plumbing Code and the following:

- A. Water Service Connection: Water piping connection to the mobile home shall be not less than three-fourths inch (¾") nominal diameter.

- B. Sewer Connection: A watertight connection between the mobile home drainage system and the mobile home park sewer connection shall be made by means of a readily removable semi-rigid connector with a clean out. (Ord. 86-157)

16-2-707: ADDITIONS AND ACCESSORY STRUCTURES:

- A. No additions shall be made to an approved mobile home system unless the addition either meets the Building Code or is an approved system.
- B. No permit is required for patio covers and carports connected to the mobile home along one entire side and open on at least two (2) sides.
- C. A permit is required for any electrical, plumbing or mechanical work that is installed in a mobile home or any accessory structure over one hundred (100) square feet in size. (Ord. 86-157)

16-2-708: SETBACKS:

- A. 1. General. Mobile homes shall be set up in accordance with the applicable setbacks of the zoning where located.
2. In mobile home parks, mobile homes shall be no closer than:
- a. Five feet (5') from street with no infringement into setback.
 - b. Twelve feet (12') from adjacent home with no infringement into setback (both built after 1976).
 - c. Six feet (6') from property line, built after 1976.
 - d. Ten feet (10') from property line, built before 1976.

Note: No infringement except that open carports or shelters (two [2] open sides) may extend to within two feet (2') of property line.

- B. Accessory Buildings (more than two [2] sides closed). Require a building permit, inspections and plot plan.

B) 1. In mobile home park:

Five feet (5') from property line (side rear).

Twenty feet (20') from property line (front).
(Ord. 86-157)

16-2-709: **APPLICATION:** This Part 7 shall apply to every mobile home within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-710: **INTERPRETATION:** This Part 7 shall be interpreted and construed as to effectuate its general purpose to make uniform the local mobile home regulations contained herein. Article and section headings of this Part 7 shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of provisions of any article or section thereof. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 2 BUILDING CODES

PART 8 UNIFORM SOLAR ENERGY CODE

SECTION:

16-2-801: Short Title
 16-2-802: Code Adopted by Reference
 16-2-803: Application
 16-2-804: Interpretation
 16-2-805: Sale of Copies

16-2-805: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-157)

16-2-801: **SHORT TITLE:** This Part 8 may be known and cited as the Uniform Solar Energy Code. (Ord. 86-157)

16-2-802: **CODE ADOPTED BY REFERENCE:** Pursuant to title 31, article 16, part 2, C.R.S., as amended, there is hereby adopted by reference the Uniform Solar Energy Code of the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032, 1985 Edition. Three (3) copies of such Code are now filed in the office of the Clerk of the City and may be inspected during regular business hours. The above Code is being adopted as if set out at length save and except the following sections which are declared to be inapplicable and are therefore expressly deleted:

A. Part 1. (Ord. 86-157)

16-2-803: **APPLICATION:** This Part 8 shall apply to every building or structure within or outside the corporate limits of the City, over the use of which the City has jurisdiction and authority to regulate. (Ord. 86-157)

16-2-804: **INTERPRETATION:** This Part 8 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local building or structure regulations contained herein. Article and section headings of this Part 8 and adopted Uniform Solar Energy Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of provisions of any article or section thereof. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 2 BUILDING CODES

PART 9 APPLICATION OF REGULATIONS

SECTION:

- 16-2-901: Applicability to Buildings and Structures
- 16-2-902: Additions, Alterations or Repairs
- 16-2-903: Nonstructural Alterations or Repairs
- 16-2-904: Repairs to Roof Coverings
- 16-2-905: Existing Occupancies
- 16-2-906: Maintenance of Buildings
- 16-2-907: Alternate Materials and Methods of Construction
- 16-2-908: Modifications
- 16-2-909: Tests

16-2-901: APPLICABILITY TO BUILDINGS AND STRUCTURES:

- A. Existing Buildings. Buildings or structures to which additions, alterations or repairs are made shall comply with all the requirements for new buildings or structures except as specifically provided in this Part. The value or valuation of a building shall be the estimated cost to replace the building in kind, based on current replacement costs as determined by the Building Official.
- B. New Buildings, Structures or Equipment. This Building Code shall apply to all equipment, structures and buildings heretofore erected or installed.
- C. Moved Buildings. Buildings or structures moved into or within the City or the zoned areas of El Paso County shall comply with the provisions of this Code for new buildings or structures. (Ord. 84-282)

16-2-902: ADDITIONS, ALTERATIONS OR REPAIRS: Additions, alterations or repairs may be made to any building or structure without requiring the existing building or structure to comply with all the requirements of this Code, provided the addition, alteration or repair conforms to that required

for a new building or structure. Additions, alterations or repairs shall not cause an existing building or structure to become unsafe or overloaded. Any building so altered, which involves a change in the use of occupancy, shall not exceed the height, number of stories and area permitted for new buildings. Any building plus new additions shall not exceed height, number of stories and area specified for new buildings.

Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect any structural member or any part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed.

EXCEPTION: The installation or replacement of glass shall be as required for new installations. (Ord. 84-282)

16-2-903: NONSTRUCTURAL ALTERATIONS OR REPAIRS: Alterations or repairs not exceeding twenty five percent (25%) of the value of an existing building or structure which are nonstructural and do not affect any member or part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed.

EXCEPTION: The installation or replacement of glass shall be as required for new installations. (Ord. 84-282)

16-2-904: REPAIRS TO ROOF COVERINGS: Not more than twenty five percent (25%) of the roof covering of any building or structure shall be replaced in any twelve (12) month period unless the new roof covering is made to conform to the requirements of the Building Code for new buildings or structures. (Ord. 84-282)

16-2-905: EXISTING OCCUPANCIES: Buildings in existence at the time of the passage

of the Building Code may have their existing use or occupancy continued if such use or occupancy was legal at the time of the passage of the Building Code, provided such continued use is not dangerous to life. If any change is made in the use or occupancy of any existing building or structure, the provisions of Part 2 of Article 4 of this Chapter must be complied with. (Ord. 84-282)

16-2-906: MAINTENANCE OF BUILDINGS: All buildings or structures both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code in a building or structure when erected, altered or repaired, shall be maintained in good working order. The owner or his designated agent shall be responsible for the maintenance of buildings or structures. (Ord. 84-282)

16-2-907: ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION: The provisions of the Building Code are not intended to prevent the use of any material or method of construction and specifically prescribed herein or regulations adopted thereunder, provided any such alternate has been approved by the Building Official. The Building Official may approve any such alternate provided he finds that the proposed design is satisfactory, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Building Code in quality, strength, effectiveness, fire resistance, durability and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. (Ord. 84-282)

16-2-908: MODIFICATIONS: Whenever there are practical difficulties involved in carrying out the provisions of the code, the Building Official may grant modifications for individual cases, provided he shall first find that a special individual reason makes the strict letter of this Code impractical and that the modification is in conformity with the intent and purpose of this Code and that such modification does not lessen any fire protection requirements or any degree of structural integrity. The details of any action granting modifications shall be recorded and entered in the files of the code enforcement agency. (Ord. 84-282)

16-2-909: TESTS: Whenever there is insufficient evidence of compliance with the provisions of the Building Code or evidence that any material or any construction does not conform to the requirements of the Building Code, or in order to substantiate claims for alternate materials or methods of construction, the Building Official may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved testing agency.

Tests methods shall be as specified by the Building Code for the material in question. If there are no appropriate test methods specified in said Code, the Building Official shall determine the test methods.

Copies of the results of all such test shall be retained for a period of not less than two (2) years after the acceptance of the structure. (Ord. 84-282)

CHAPTER 16 BUILDING

ARTICLE 3 PERMITS AND FEES

PART 1 BUILDING PERMITS

SECTION:

16-3-101: Permits Required
 16-3-102: Exceptions
 16-3-103: Architect/Engineer Required
 16-3-104: Application for Permits
 16-3-105: Authorized Applicants
 16-3-106: Prerequisites to Permit Issuance
 16-3-107: Issuance of Permits
 16-3-108: Partial Permits
 16-3-109: Expiration of Permits
 16-3-110: Suspension or Revocation of Permit

16-3-101: **PERMITS REQUIRED:** No person nor the Federal, State, County or City government, or any agency, subdivision or department thereof, shall erect, construct, enlarge, remodel, alter, repair, move improve, remove, convert, demolish or change type of occupancy of any building, structure, sign or utility or perform any other work regulated by this Code within the corporate limits of the City or El Paso County, or cause the same to be performed without first having obtained a permit for the specific work to be performed from the Regional Building Department.

All signs hereafter erected shall be erected by a Sign Contractor licensed by the Regional Building Board or Review under Article 6 of this Code.

16-3-102: EXCEPTIONS:

A. No permit is required when the work performed is conducted by the personnel of or for the use of the public telephone and telegraph and messenger call companies operating under regular franchise granted by the City and under bond to the City, or other public or private utilities who desire to install electrical wiring, electrical fixture, appliances or apparatus on:

1. Installations of communication equipment under exclusive control of communication util-

A1) ities, located outdoors or in building spaces used exclusively for such installations.

2. Installations under the exclusive control of electric or natural gas utilities for the purpose of communication, metering or for the generation, control, transformation, transmission and distribution of electric or natural gas energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads or outdoors by established rights on private property.

B. All work performed on an emergency basis, as determined by the Regional Building Official, to maintain an existing service or to maintain an existing installation, building or structure, where such maintenance is necessary to protect life or property, shall not be subject to the above penalty if application for such permits is made within seventy-two (72) hours after commencement of the emergency work.

C. Plumbing, as defined in the Plumbing Code, may be done in the case of repairing leaks without a permit, provided that those so repairing leaks for compensation are properly licensed.

D. Temporary signs erected under special permits issued by a City Manager, Mayor, or El Paso County Commissioners.

E. Temporary (limited to one year) free-standing signs under seven (7) feet high and thirty-two (32) square feet in sign area.

F. Automatic Fire Extinguishing System or Standpipe System, as defined in Section 88.102 of the Fire Prevention Code and Standards (Uniform Fire Code), Installation or Renovation Within the Corporate Limits of the City provided that a permit is obtained under the provisions of Article 4 and Article 88 of the Fire Prevention Code and Standards (Uniform Fire Code). (Ord. 84-282; Ord. 85-184)

16-3-103: ARCHITECT/ENGINEER REQUIRED:

Drawings and specifications for the work to be performed shall be required prior to the issuance of a permit. Such drawings and specifications shall be reviewed and approved by the Regional Building Department prior to the issuance of a permit for the work performed. All applications for a permit to construct, erect, alter or repair a building or structure shall be accompanied by a minimum of two (2) complete sets of drawings and specifications which shall include architectural, structural, plumbing, mechanical and electrical details.

- A. Information required. Drawings shall be drawn to scale upon substantial paper, plastic, or cloth, and shall be of sufficient clarity to indicate the nature of the work proposed and show in detail that it will conform to the provisions of this Chapter and all relevant laws, ordinances, rules and regulations. The first sheet of each set of drawings and specifications shall give the building and street address of the work and the name and address of the firm or person who prepared them. Drawings shall include a plot plan showing the location of the proposed building and of every existing building on the property.

Calculations indicating the determination of any or all structural, mechanical and electrical design features and other necessary data sufficient to show correctness of the design shall be submitted when requested by the Building Official.

- B. Plans and Specifications. Each application for a permit shall be accompanied by two (2) sets of plans and specifications, except, when authorized by the Building Official, plans and specifications need not be submitted for the following:

1. One story buildings of conventional wood-stud construction with an area not exceeding six hundred (600) square feet;
2. Private garages, sheds and agricultural buildings when not over one thousand (1,000) square feet in area of conventional wood-stud construction; or
3. Small and unimportant work.
4. Plan and specifications requiring preparation by an architect or an engineer as specified herein

- B4) shall be prepared by and bear the stamp and signature of an architect licensed in the State of Colorado or a professional engineer registered in the State of Colorado. The professional preparing said plans shall be responsible for the structural integrity of the entire system; footings, foundations, walls, roof and all similar building systems.

(a) An architect's or an engineer's stamp shall be required for all plans and specifications for new construction, alterations, remodeling, additions to or repair of any buildings within the jurisdiction of the Regional Building Department, except as concerns the following construction:

1. One and two family dwellings, including accessory buildings commonly associated with such dwellings;
2. Garages, industrial buildings, offices, farm buildings and buildings for the marketing, storage or processing of farm products, and warehouses, which do not exceed one story in height, exclusive of a one-story basement, and which under applicable building code, or codes, are not designed for occupancy by more than ten persons.
3. Additions, alterations, or repairs to the foregoing buildings which do not cause the completed buildings to exceed the applicable limitations set forth in this Part 3.
4. Nonstructural alterations of any nature to any building if such alterations do not affect the safety of the building.

- C. Approval of Documents. Drawings complying with the provisions of this Chapter, and approved by the Regional Building Department, shall bear the Regional Building Department stamp of approval on each page thereof and each set of specifications. When corrections are required to be made, the Building Official may require that the drawings and specifications be revised and resubmitted for approval prior to the issuance of a permit. Approval of drawings and specifications shall not be construed to mean approval of any violation of this Chapter if such violation is included in the approved drawing and specifications, and shall not relieve or exonerate any person from the responsibility of complying with the provisions of this Chapter.

- D. Distribution of Documents. One set of approved drawings and specifications shall be returned to the applicant to be kept on the job site at all times during which the authorized work is in progress and one approved set shall remain in the office of the Regional Building Department and shall be retained for a period of not less than ninety (90) days after date of completion of the work.
- E. Return of Documents. Drawings and specifications submitted for checking, for which no permit is issued and on which no action is taken by the applicant for ninety (90) days, may be returned to the last known address of the applicant and a plan checking fee as provided herein shall be assessed. (Ord. 84-282)

16-3-104: APPLICATION FOR PERMITS: Permits are required prior to the commencement of any work governed by this Code, and to obtain a permit the applicant shall first file an application therefor in writing on a form furnished by the Regional Building Department. Every application shall contain the following:

- A. Identify and describe the work to be covered by the permit for which an application is made.
- B. Describe the land on which the proposed work is to be done, by lot, block, tract and house and street address or similar description that will readily identify and definitely locate the proposed building or work.
- C. Show the use or occupancy of all parts of the building.
- D. Be accompanied by complete drawings and specifications as required in Section 16-3-103.
- E. State the valuation of the proposed work.
- F. Be signed by the applicant, or his authorized agent, who may be required to submit evidence to indicate such authority.
- G. Give such other reasonable information as may be required by the Regional Building Official.

When work is started before a permit is issued, with the exception of work performed on an emergency basis pursuant to this Section, the applicant shall be required to pay double the fees listed under Part 2 of this Article. (Ord. 84-282)

16-3-105: AUTHORIZED APPLICANTS: Only persons duly licensed under the terms and provisions of this Code may apply for a permit, and such licensees may apply for and be issued permits to perform only such work as they are entitled to perform under their respective licenses. Any applications for permit filed by a nonlicensed individual, association or corporation where licensing is required pursuant to this Chapter, shall be deemed to have been filed with fraudulent interest, and shall be null and void.

Notwithstanding the foregoing and in addition thereto, the following persons shall be deemed to be authorized applicants:

- A. Any person who owns and resides in or intends to reside in an R-3 occupancy may make application for a permit to enlarge, remodel, alter, repair, improve, convert or demolish such building, upon the issuance of a permit hereunder, all such work authorized shall be performed in accordance with all the requirements of this Chapter.
- B. Any person who owns a property and wishes to construct or erect a single family dwelling on said property for his own occupancy, may make application for a permit for such building or structure.¹ (Ord. 84-282)

16-3-106: PREREQUISITES TO PERMIT ISSUANCE:

- A. Contractor. A building contractor A or B, as defined in Section 16-6-101, is required for all work requiring the supervision of an architect and/or engineer.
- B. Municipal Services. No building permit shall be issued until the applicant has processed an application for water, wastewater and drainage through the Director of Public Works and Director of Utilities of the City or other applicable authorities, and the applicant has paid all fees pursuant to such application. (Ord. 84-282)

16-3-107: ISSUANCE OF PERMITS: The application, drawings and specifications filed by an applicant for a permit shall be checked by the Building Official. Such documents may be reviewed by other departments of the City or County of El Paso to check compliance with the laws and ordinances under their jurisdiction. When the Building Official is satisfied that the work described in the

1. See contractor licensing provisions, Article 6 of this Chapter to determine when owner builder requires license.

application for a permit and the drawings and specifications filed therewith conform to the requirements of this Building Code and other pertinent laws and ordinances, and that the fee specified in Part 2 of this Article has been paid, he shall issue a permit to the applicant. Under normal circumstances the Regional Building Department shall issue the permit within (10) working days of application.

When the Building Official issues the permit, he shall endorse in writing or stamp on all sets of specifications and each page of the drawings "APPROVED" with the date and signature of the official giving approval. Such approved drawings and specifications shall not be changed, modified or altered without authorization from the Building Official, and all work shall be done in accordance with the approved documents. (Ord. 84-282)

16-3-108: PARTIAL PERMITS: The Building Official may issue a permit for the construction of part of a building or structure before the complete drawings and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the Building Code. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building or structure will be granted. (Ord. 84 282)

16-3-109: EXPIRATION OF PERMITS: Every permit issued by the Building Official under the provisions of this Code shall automatically become null and void if the building or work authorized by such permit is not commenced within sixty (60) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of sixty (60) days. Before work can be recommenced a new permit shall be first obtained, and the fee therefore shall be one-half ($\frac{1}{2}$) the amount required for a new permit; provided, no changes have been made or will be made in the original drawings and specifications and provided, further, that suspension or abandonment has not exceeded one year. (Ord.75-17)

16-3-110: SUSPENSION OR REVOCATION OF PERMIT: The Building Official may, in writing suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any provisions of the Building Code. (Ord. 84-282)

CHAPTER 16 BUILDING
ARTICLE 3 PERMITS AND FEES
PART 2 BUILDING PERMIT FEES

SECTION:

- 16-3-201: New Construction; Table 3-A-1
- 16-3-202: New R-3 Occupancies; Table 3-A-2
- 16-3-203: Alterations, Additions, Conversions and Repairs; Table 3-A-3
- 16-3-204: Electrical Permit Fees; Table 3-B
- 16-3-205: Mechanical Permit Fees; Table 3-C
- 16-3-206: Plumbing Permit Fees; Table 3-E
- 16-3-207: Wrecking Permit Fees
- 16-3-208: Moving Permit Fees
- 16-3-209: Mobile Home Inspection Fees
- 16-3-210: Sign Permit Fees
- 16-3-211: Other Fees
- 16-3-212: Fee Refunds
- 16-3-213: Expiration of Plan Review

16-3-201: **NEW CONSTRUCTION; TABLE 3-A-1:** The following table reflects the building permit fees for all new construction except R-3 Occupancies and for all alterations, additions, conversions and repairs where the total valuation of the work exceeds two thousand dollars (\$2,000.00).

<u>TOTAL</u>	<u>PERMIT FEE</u>
\$ 2,000.00 to \$ 25,000.00	\$ 30.00 for the first \$2,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00.
25,001.00 to 50,000.00	\$ 76.00 for the first \$25,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00.
50,001.00 to 100,000.00	\$126.00 for the first \$50,000.00 plus \$1.50 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00.
100,001.00 and more	\$201.00 for the first 100,000.00 plus \$1.00 for each additional \$1,000.00 or fraction thereof.
(Ord. 85-241)	

16-3-202: **NEW R-3 OCCUPANCIES; TABLE 3-A-2:** Mandatory permit for new R-3 occupancies. Fees are for plumbing, electrical, heating and building inspections.

<u>*SQUARE FEET</u>	<u>PERMIT FEE</u>
Up to 800	\$155.00
801 to 1,000	170.00
1,001 to 1,200	190.00
1,201 to 1,400	215.00
1,401 to 1,600	235.00
1,601 to 1,800	250.00
1,801 to 2,000	265.00
Over 2,000	265.00 for the first 2,000 sq. ft. plus \$3.00 for each additional 100 sq. ft. or fraction thereof

* Square footage to be computed in the following manner.

1. The garage, basement or cellar is not included.
2. In single story houses, use one hundred percent (100%) of the main floor.
3. Use one hundred percent (100%) of the upper two (2) levels of a tri-level or four-level house.
4. In multi-story houses, use one hundred percent (100%) of the main level area and fifty percent (50%) of the upper floors. (Ord. 85-241)

16-3-203: ALTERATIONS, ADDITIONS, CONVERSIONS AND REPAIRS; TABLE 3-A-3: This table is to be used for alterations, additions, conversions and repairs that are less than two thousand dollars (\$2,000.00) in valuation:

Minimum Permit.....\$20.00

Each required inspection as designated in Section 16-4-102A
over one inspection.....\$10.00
(Ord. 85-241)

16-3-204: ELECTRICAL PERMIT FEES; TABLE 3-B:

<u>VALUATION</u>	<u>PERMIT FEE</u>
\$ 100.00 to \$ 800.00	\$15.00
801.00 to 2,000.00	\$15.00 for the first \$800.00 plus \$2.00 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
2,001.00 to 25,000.00	\$39.00 for the first \$2,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, up to and including \$25,000.00
25,001.00 to 50,000.00	\$131.00 for the first \$25,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, up to and including \$50,000.00
50,001.00 to 100,000.00	\$231.00 for for the first \$50,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, up to and including \$100,000.00
100,000.00 and up	\$381.00 for the first \$100,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof

(Ord. 85-241)

16-3-205: MECHANICAL PERMIT FEES; TABLE 3-C:

<u>VALUATION</u>	<u>PERMIT FEE</u>
\$ 100.00 to \$ 800.00	\$ 15.00
801.00 to 2,000.00	\$ 15.00 for the first \$800.00 plus \$2.50 for each additional \$100.00 or fraction thereof, up to and including \$2,000.00.

Table 3-C (cont.)

\$ 2,001.00 to 25,000.00	\$ 45.00 for the first \$2,000.00 plus \$5.50 for each additional \$1,000.00 or fraction thereof, up to and including \$25,000.00.
25,001.00 to 50,000.00	\$171.50 for the first \$25,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, up to and including \$50,000.00.
50,001.00 to 100,000.00	\$271.50 for the first \$50,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, up to and including \$100,000.00.
100,000.00 and up	\$421.50 for the first \$100,000.00 plus \$1.00 for each additional \$1,000.00 or fraction thereof.
(Ord. 85-241)	

16-3-206: PLUMBING PERMIT FEES; TABLE 3-E:

Base fee.....\$10.00

Add \$2.00 for each fixture, opening or water supplied device to base fee.
(Ord. 85-241)

16-3-207: WRECKING PERMIT FEES:

The fees for a permit to wreck a building shall be.....\$ 20.00
(Ord. 85-241)

16-3-208: MOVING PERMIT FEES:

The fees for a permit to move a building shall be.....\$ 20.00

EXCEPTION: The fee for moving a building without moving on a public thoroughfare shall be covered by an alteration permit. Wrecking and moving permit fees do not include the services of any other City or County Department. (Ord. 85-241)

16-3-209: MOBILE HOME INSPECTION FEES:

Permit fee for each mobile home installation.....\$ 35.00

This permit will be issued to each mobile home owner at the time he/she desires connection to any utility (gas, water, electricity or wastewater) and will provide for the inspection services required to determine compliance with all the applicable codes. (Ord. 85-241)

16-3-210: SIGN PERMIT FEES:

The permit fee for each sign installation shall be.....\$ 20.00
(Ord. 85-241)

16-3-211: OTHER FEES:

- A. Plans Examination Fee: When a plan or other data is required to be submitted by Section 16-3-103B of the Pikes Peak Regional Building Code, a plan review fee shall be paid at the time of submission of such plans and/or data.

All occupancies shall pay one fourth ($\frac{1}{4}$) of the permit fee.

Exception: The fee for master plans for R-3 occupancies shall be fifty dollars (\$50.00) plus ten dollars (\$10.00) handling fee for each use of plan.

- B. Investigation Fee: Work Without a Permit:

1. Investigation: Whenever any work for which a permit is required by the Pikes Peak Regional Building Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

2. Fee: An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by the Code if a permit were issued. The payment of such an investigation fee shall not exempt any person from compliance with any provisions of the Pikes Peak Regional Building Code nor from any prescribed by law.

C. Compliance Inspection Fee:

Inspection by Building, Electrical, Heating and Plumbing Inspector. Includes a written report.....	\$100.00
Single inspections, first inspection with report.....	30.00
Each additional inspection.....	25.00

- D. Reinspection Fees: A reinspection fee of twenty dollars (\$20.00) shall be assessed for each inspection or reinspection when such portion of work for which inspection is requested is not complete or when corrections required by a previous inspection have not been made.

This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of requesting inspections before the job is ready for such an inspection or reinspection.

Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until such fees have been paid. (Ord. 85-241)

16-3-212: **FEE REFUNDS:** The Building Official may authorize the refunding of any fee paid which was erroneously paid or collected.

The Building Official may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with the Pikes Peak Regional Building Code.

The Building Official may authorize the refunding of not more than eighty percent (80%) of the plans examination fee when an application for a permit for which a plans examination fee has been paid, is withdrawn or cancelled before any plans examination effort has been expended. (Ord. 85-241)

16-3-213: **EXPIRATION OF PLAN REVIEW:** Applications for which no permit is issued within one hundred eighty (180) days following the date of application shall expire and plans and other data submitted for review may thereafter be returned to the applicant or be destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plans examination fee. (Ord. 85-241)

CHAPTER 16 BUILDING

ARTICLE 4 CERTIFICATES AND INSPECTIONS

PART 1 INSPECTIONS

SECTION:

- 16-4-101: General Requirements, Exceptions
- 16-4-102: Required Inspections
- 16-4-103: Work Covered Before Inspection
- 16-4-104: Special Inspection Requirements
- 16-4-105: Inspection Record Card
- 16-4-106: Approvals Required
- 16-4-107: Reinspections
- 16-4-108: Inspection Priority

16-4-101: GENERAL REQUIREMENTS, EXCEPTIONS: All work performed under the provisions of the Building Code shall be subject to inspections by the Regional Building Department and all inspections shall be requested at least twenty four (24) hours in advance. Certain types of work specified hereinafter shall have continuous special inspection by privately employed qualified inspectors.

Upon satisfactory completion of six (6) comparable building projects, the Building Official may grant approval for the following special inspection procedures for any detached R-3 Occupancy being built under a federal program requiring a compliance inspection. Under these special procedures, a certificate of the approved inspections by the federal inspecting agency submitted to the Regional Building Department may serve in lieu of inspections hereinafter required by the Building Code. Abuse of this special procedure, upon determination by the Building Official, may result in the imposition of full inspection procedures by the Regional Building Department. Abuse may include, but not be limited to, such incidences as failure to submit the certificates of approved inspections and failure to obtain all required inspections by the inspecting agency or agencies chosen by the permit applicant at the time of permit issuance. The purpose of this paragraph is to provide a method of eliminating a duplication of inspections, but in no way eliminates or waives the requirements of this Code. (Ord. 86-157)

16-4-102: REQUIRED INSPECTIONS: Without limitation the Regional Building Department

shall make the following inspections of buildings, structures, utilities or equipment and shall either approve that portion of the work as completed or shall notify the permit holder or his agent wherein the same fails to comply with the requirements of the Building Code.

It shall be the responsibility of the permit holder to request all required inspections at the appropriate times. It shall be the duty of the person requesting inspections regulated by this Code to provide access to and means for proper inspection.

The Building Official shall not be liable for any expenses entailed in the removal or replacement of any material required to allow the inspection.

Connections:

Energy Connections. No person shall make connections from a source of energy to any system or equipment regulated by this Code and for which a permit is required until approved by the Building Official.

Temporary Connections. The Building Official may authorize temporary connection of the equipment to the source of energy for the purpose of testing the equipment, or for use under a temporary certificate of occupancy.

A. Construction Inspections:

1. **Footing.** After excavation is complete, forms erected and braced, steel if any, in place and tied. Before any concrete is poured.

2. **Foundation.** After excavation is complete, forms erected and braced, steel in place and tied. Before any concrete is poured. Foundation inspection required on all walls without footings and other walls when notified by inspector.

3. **Caissons.** Notify Building Department when pouring will start. Department will inspect at random.

4. **Frame.** To be made when framing is complete, after mechanical and electrical inspections

A4) are made. Fireplaces, flues, blocking, bracing insulation and exterior sheathing shall be in place. Exterior finish is optional as required by the inspector. Windows and doors shall be installed and roof in place so the house is dried in. Lathing or wallboard shall not be installed.

5. Lath. After all interior and exterior lathing is installed, but before any plater or stucco has been applied.

6. Final. When all construction and site improvements are complete and prior to occupancy.

B. Plumbing Inspections:

1. Base. This inspection shall be made after all of the underground potable water, waste, and vent piping is in place, under the required test and prior to the piping being covered.

2. Top-Out and Inside Water. This inspection shall be accomplished after all aboveground potable water, waste, and vent piping is in place, under the required test and prior to any of the piping being concealed.

3. Water Out. This inspection shall be made after the water service ditch has been excavated and the service line placed in the ditch, but not yet backfilled.

4. Roof Drain. This inspection shall be made after the roof drainage system piping is in place, but not yet concealed.

5. Final. This inspection is accomplished when all fixtures are set and operating and all work is complete.

C. Electrical Inspections:

1. Rough-In. First inspection which shall consist of all conduit, semi-rigid piping or wiring being in place, prior to covering.

2. Final. Final inspection to be made when the work is completed and operating.

D. Mechanical Inspections:

1. Vent. This inspection is made after the vent is installed and before it is concealed.

D) 2. Gas Piping. This inspection is made after all gas piping has been installed and before it is covered and concealed. See Section 16-2-203S for specific requirements.

3. Duct. This inspection is made on all occupancies except R-3 (single-family, duplexes, and townhouses) after the ductwork is in place and before it is concealed.

4. Construction Meter. This is a special inspection, permitted only during the winter months, which enables the gas meter to be set prior to the final inspection.

5. Final. This inspection is requested after all appliances are installed and are ready to become operational.

There shall be a final inspection and approval on all buildings when completed and ready for occupancy, and in addition to the inspections specified above, the Building Official may, at any time, make other inspections of the work to ascertain compliance with the provisions of this Building Code and other laws which are enforced by the Regional Building Department. (Ord. 86-157)

16-4-103: WORK COVERED BEFORE INSPECTION: Whenever any work is covered or concealed by additional work without first having been inspected as required, the Regional Building Department may order, by written notice, that such work be exposed for examination. (Ord. 86-157)

16-4-104: SPECIAL INSPECTION REQUIREMENT:

A. Special Inspector. In addition to the inspections to be made as specified above, the owner or his agent shall, upon direction of the Building Official, employ a special inspector on special construction or work involving unusual hazards or requiring constant inspection. The special inspector shall be a qualified person approved by the Building Official and shall furnish continuous inspections on the construction work requiring his employment, and said inspector, or the architect or engineer employing the inspector, shall furnish a copy of his reports to the Building Official when so required.

Special inspection required by this Section and

- A) elsewhere in this Code shall not be required where the work is done on the premises of a fabricator, approved by the Building Official, to perform such work without special inspection. The certificate of approval shall be subject to revocation by the Building Official if it is found that any work done pursuant to the approval is in violation of the Building Code.
- B. Observation by Architect, Engineer or Others. Observation of the construction of buildings, structures or utilities to which required drawings and specifications pertain shall be performed by or under observation of the architect or engineer responsible, as indicated in Section 16-3-106A. (Ord. 86-157)

16-4-105: INSPECTION RECORD CARD: Work requiring a permit shall not be commenced until the permit holder or his agent shall have posted an inspection record card in a conspicuous place on the front premises of the property and in such position as to allow the Building Official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained in this location by the permit holder until all required inspections have been recorded. (Ord. 86-157)

16-4-106: APPROVALS REQUIRED: No work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. A survey of the lot may be required by the Building Official to verify compliance of the structure with approved documents. (Ord. 86-157)

16-4-107: REINSPECTIONS: The Building Official has the right to reinspect any premises within his jurisdiction. These inspections may be made from time to time during reasonable hours and upon notice to occupants, and are made to determine if the requirements of the Building Code are continually met and that the premises are kept in accordance with the requirements of said Code. (Ord. 86-157)

16-4-108: INSPECTION PRIORITY: Inspection priorities based on time prior to expected response.

- A. Emergencies - gas leaks, collapse or dangerous conditions.
- B. Twenty four (24) hours in advance of time needed.
- C. In the morning, when needed in afternoon.
- D. During same period needed - morning for morning or afternoon for afternoon. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 4 CERTIFICATES AND INSPECTIONS

PART 2 CERTIFICATES OF OCCUPANCY

SECTION:

- 16-4-201: Certificate Required
- 16-4-202: Certificate Issued
- 16-4-203: Compliance Required
- 16-4-204: Temporary Certificates
- 16-4-205: Certificate to be Posted

16-4-201: CERTIFICATE REQUIRED:

- A. Use or Occupancy. No new building or structure in groups A to H, inclusive, shall be used or occupied and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein.
- B. Changes in Use. No change shall be made in the character of occupancy or use of any building which would place the building in a different group of occupancy, unless such building is made to comply with the requirements of the Building Code for that group. A change in use to a use which causes a large increase in the occupant load shall require compliance with the requirements of the Building Code the same as required by a change to another occupancy group.

The character of the occupancy of existing buildings may be changed subject to the approval of the Building Official, and the building may be occupied for purposes in other groups without conforming to all requirements of the Code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use. (Ord. 84-282)

16-4-202: CERTIFICATE ISSUED: After final inspection, if it is found that the building

or structure complies with the provisions of the Building Code and other applicable requirements including but not limited to zoning, planning, fire, health and engineering, the permittee or owner shall request and the Building Official shall issue a certificate of occupancy, and the building shall not be occupied until the certificate of occupancy is issued. The certificate of occupancy shall contain:

A. The use and occupancy for which the certificate is issued.

B. A statement that the floor load signs have been installed, as follows:

The live loads for which each floor or part thereof of a commercial or industrial building is or has been designed, shall have designed live loads conspicuously posted by the owner in that part of each story in which they apply, using durable metal signs, and it shall be unlawful to remove or deface such notices. The occupant of the building shall be responsible for keeping the actual load below the allowable limits.

C. A statement that the room capacity signs have been installed, as follows:

The maximum room capacity shall be conspicuously posted by the owner of the building by means of durable metal or plastic signs placed in each assembly room, auditorium or room used for a similar purpose where fixed seats are not installed, and it shall be unlawful to remove or deface such notice or to permit more than this legal number of persons within such space.

D. A statement that the building or structure complies with the provisions of the Building Code.

E. A statement to the effect that apartment complexes and small business centers have been identified by numbers of a minimum of five

- E) inches (5'') high with no less than one-half inch ($\frac{1}{2}$ '') stroke so that they are plainly visible and legible from a distance of at least one hundred feet (100') from the street, road, fire lane or other right of way or easement fronting the structure and which meet all other applicable requirements of the Code of the City of Colorado Springs 1980, as amended. (Ord. 84-282; Ord. 86-106)

16-4-203: COMPLIANCE REQUIRED: The Building Official shall not issue a certificate of occupancy to any owner who has not complied with the requirements imposed on the owner by the City whether by ordinance, resolution, contract or otherwise. The site improvements including, but not limited to, landscaping, paving and lighting shall be completed in accordance with the plans submitted and approved before a certificate of occupancy may be issued. However, if the site improvements cannot be completed because of the season or other valid reason, the Building Official, upon obtaining from the owner a letter of credit or other acceptable assurance¹ that improvements will be completed at the earliest possible time, may issue a certificate of occupancy; provided, that all other requirements of this Part 4 have been complied with. (Ord. 84-282)

16-4-204: TEMPORARY CERTIFICATES: A temporary certificate of occupancy may be issued by the Building Official for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. (Ord. 84-282)

16-4-205: CERTIFICATE TO BE POSTED: The certificate of occupancy or temporary certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official. (Ord. 84-282)

1. For definition, see Section 15-3-108 of this Code.

CHAPTER 16 BUILDING

ARTICLE 5 DANGEROUS BUILDING CODE

PART 1 ADMINISTRATION AND ENFORCEMENT

SECTION:

- 16-5-101: Title
- 16-5-102: Purpose and Scope of Regulations
- 16-5-103: Administration
- 16-5-104: Board of Appeals
- 16-5-105: Inspections
- 16-5-106: Right of Entry for Inspections
- 16-5-107: Definitions

16-5-101: **TITLE:** This Article shall be known as the Dangerous Building Code, and may be cited as such. (Ord. 84-282)

16-5-102: PURPOSE AND SCOPE OF REGULATIONS:

- A. Purpose. It is the purpose of these provisions to provide a just, equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by the Regional Building Code, or the Housing Code,¹ or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished.
- B. Scope. The provisions of this Article shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter be constructed in the City. (Ord. 84-282)

16-5-103: **ADMINISTRATION:** The Building Official is hereby authorized to enforce the provisions of this Article. (Ord. 84-282)

16-5-104: **BOARD OF APPEALS:** In order to provide for final interpretation of the provisions of

this Code and to hear appeals provided for hereunder, there is hereby established a Board of Appeals of five (5) members who are not employees of the City. The Building Official shall be an ex officio member of and shall act as secretary to said Board. The Board shall be appointed by the City Council and shall serve at its pleasure. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in Part 3 of this Article. Copies of all rules and regulations adopted by the Board shall be delivered to the Building Official, who shall make them freely accessible to the public. (Ord. 84-282)

16-5-105: **INSPECTIONS:** The City Health Officer, the Fire Chief and the Building Official and their authorized representatives are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Article.

All buildings or structures within the scope of this Article and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this Article and Section 16-4-101 of the Regional Building Code. (Ord. 84-282)

16-5-106: RIGHT OF ENTRY FOR INSPECTIONS:

- A. Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises dangerous as defined in Section 16-5-107 hereof, the Building Official or his authorized representative may enter such building or premises at all reasonable times to

¹. See Article 2 of Chapter 16 for the Regional Building Code; and Chapter 17 for the Housing Code.

- A) inspect the same or perform any duty imposed upon the Building Official by this Code; provided that
1. If such building or premises be occupied, he shall first present proper credentials and demand entry; and
 2. If such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
- B. "Authorized representative" shall include the officers named in Section 16-5-105 and their authorized inspection personnel.
- C. No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made herein provided, to promptly permit entry therein by the Building Official or his authorized representative for purpose of inspection and examination pursuant to this Code. Any person violating this subdivision shall be guilty of a misdemeanor. (Ord. 84-282)

16-5-107: **DEFINITIONS:** The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.¹

DANGEROUS BUILDING: For the purpose of this Article any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

- A. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- B. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads,

is more than one and one-half (1 ½) times the working stress or stresses allowed in the Regional Building Code for new buildings of similar structure, purpose or location.

- C. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Regional Building Code for new buildings of similar structure, purpose or location.
- D. Whenever any portion or member or appurtenance thereof is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- E. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or it is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the Regional Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Regional Building Code for such buildings.
- F. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- G. Whenever the building or structure, or any portion thereof, because of
 1. Dilapidation, deterioration or decay;
 2. Faulty construction;
 3. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 4. The deterioration, decay or inadequacy of its foundation;
 5. Any other cause, is likely to partially or completely collapse.

1. For definitions of general application, see also Section 1-1-203 of this Code.

- H. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- I. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third ($\frac{1}{3}$) of the base.
- J. Whenever the building or structure, exclusive of the foundation shows thirty three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
- K. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become
1. An attractive nuisance to children;
 2. A harbor for vagrants, criminals or immoral persons, or as to
 3. Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- L. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this City, as specified in the Regional Building Code, or the Housing Code, or of any law or ordinance of the State or City relating to the condition, location or structure of buildings.
- M. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion, less than fifty percent (50%), or in any supporting part, member or portion less than sixty six percent (66%) of the
1. Strength,
 2. Fire-resisting qualities or characteristics, or
 3. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- N. Whenever a building or structure, used for dwelling purposes, because of inadequate maintenance, dilapidation, decay damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise, is determined by the Health Officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- O. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief to be a fire hazard.
- P. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- Q. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such a building or portion thereof an attractive nuisance or hazard to the public. (Ord. 84-282)

CHAPTER 16 BUILDING

ARTICLE 5 DANGEROUS BUILDING CODE

PART 2 ABATEMENT OF DANGEROUS BUILDINGS

SECTION:

16-5-201: Public Nuisance Declared
 16-5-202: Comply with Applicable Codes
 16-5-203: Commence Abatement Proceedings
 16-5-204: Notice and Order to Abate
 16-5-205: Service of Notice and Order
 16-5-206: Notice to Vacate
 16-5-207: Record Notice and Order, Certificates
 16-5-208: Standards for Repair, Vacation or Demolition
 16-5-209: Vacant Buildings
 16-5-210: Emergency Orders

16-5-201: PUBLIC NUISANCE DECLARED: All buildings or portions thereof which are determined, after inspection by the Building Official, to be dangerous as defined in Section 16-5-107 are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this Chapter. (Ord. 84-282)

16-5-202: COMPLY WITH APPLICABLE CODES: All buildings, or structures which are required to be repaired under the provisions of this Article shall be subject to the provisions of Article 2 of this Chapter, and the applicable codes adopted by reference therein. (Ord. 84-282)

16-5-203: COMMENCE ABATEMENT PROCEEDINGS: Whenever the Building Official has inspected or caused to be inspected any buildings and has found and determined that such building is a dangerous building, he shall commence proceedings to cause the repair, vacation or demolition of the building. (Ord. 84-282)

16-5-204: NOTICE AND ORDER TO ABATE: The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- A. The street address and a legal description sufficient to identification of the premises upon which the building is located.
- B. A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 16-5-107 of this Chapter.
- C. A statement of the action required to be taken, as determined by the Building Official.
 1. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.
 2. If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.
 3. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine reasonable.
- D. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official:
 1. Will order the building vacated and posted to prevent further occupancy until the work is completed, and

- D) 2. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
- E. Statements advising
1. That any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Board of Appeals, provided the appeal is made in writing as provided in the Code, and filed with the Building Official within thirty (30) days from the date of service of such notice and order; and
 2. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter. (Ord. 84-282)

16-5-205: SERVICE OF NOTICE AND ORDER:

- A. To Whom Made: The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property; and one copy thereof shall be served on each of the following, if known, to the Building Official or disclosed from official public record;
1. The holder of any mortgage or deed of trust or other lien or encumbrance of record;
 2. The owner or holder of any lease of record; and
 3. The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this Section.

- B. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the assessment roll of the County or as known to

- B) the Building Official. If no address of any such persons so appears or is known to the Building Official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this Section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- C. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official. (Ord. 84-282)

16-5-206: **NOTICE TO VACATE:** Every notice to vacate shall, in addition to being served as provided in Section 16-5-205 above, be posted at or upon each exit of the building, and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy the building or to remove or deface this notice.

Building Official
City of Colorado Springs

Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued by him under Section 16-5-204, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the Regional Building Code.[1] Any person violating this Section shall be guilty of a misdemeanor. (Ord. 84-282)

16-5-207: RECORD NOTICE AND ORDER,

CERTIFICATES: Upon initiation of service of the notice and order, the Building Official shall file in the office of the County Clerk and Recorder of El Paso County a certificate describing the property and certifying:

- A. That the building is a dangerous building, and
- B. That the owner is being so notified.

Whenever the Building Official's order has been reversed on appeal, or the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described on the certificate, the Building Official shall file a new certificate with the County Clerk and Recorder certifying that the order has been rescinded, the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate. (Ord. 84-282)

16-5-208: STANDARDS FOR REPAIR, VACATION

OR DEMOLITION: The following standards shall be followed by the Building Official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

- A. Where the Building Official determines that any building declared a dangerous building under this Article may reasonably be repaired in accordance with the current Building Code, he shall order such action. A building owner ordered to effect repairs under this paragraph may, at his option, elect to have the building demolished.
- B. Where the Building Official determines that repair in accordance with the provisions of subparagraph A above cannot reasonably be accomplished, he shall order the building demolished.
- C. If the building or structure is in such condition as to make it immediately dangerous to life, limb, property or the safety of the public or its occupants, it shall be ordered vacated. The Building Official may also take action under Section 16-5-210 of this Article relating to Emergency Orders. (Ord. 84-282)

16-5-209: VACANT BUILDINGS:

- A. The owner or agent of any building in the City shall, whenever the same becomes vacant or unoccupied, remove therefrom and from the lot and exterior premises on which such building shall be situated all paper, trash, rubbish, refuse, garbage or combustible material accumulated thereon, and shall securely close and keep closed all doors, windows or the other openings into such building while the same remains unoccupied.
- B. In the event the owner, operator or other person responsible for the condition of any vacant building fails or refuses to remove all paper, trash, rubbish, refuse, garbage or combustible material accumulated therein, or upon the lot and exterior premises on which such building shall be situated, or shall fail or refuse to securely close and keep closed all doors, windows or other openings of such building, the Building Official shall order the same to be done without delay.
- C. Any order or notice by the Building Official shall be given or served upon the owner, operator or other person responsible for the condition of the vacant building by verbal notification or personal service, and by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises. Where personal service cannot be made, a copy thereof shall be mailed to such person by registered or certified mail to his last known address and the building posted the same day. Where orders are given verbally, they shall be confirmed by service in writing.
- D. Where notification is given verbally or by personal service, ten (10) days shall be given to comply with the order. Where notice is by registered or certified mail, fifteen (15) days from mailing shall be given for compliance.
- E. If compliance with the order has not yet begun, or arrangement made with Building Official by the due date, then the Building Official may order the same to be done without delay.
- F. To assist in the rapid abatement of vacant buildings in violation of this Section,
 - 1. Where there has been no compliance with

F1) Building Official's order, the Director of Public Works may contract to provide the services needed upon demand of the Building Official through the year. The Public Works Department is authorized to perform the abatement at the Building Official's request.

2. Where, upon the order of the Building Official, a vacant building has been cleaned, boarded and sealed, the Official shall then prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building was located, and the names and addresses of persons entitled to notice under this Section. Upon receipt of the report, the City Clerk shall be governed by the provisions of Part 4 of this Article and Article 1 of Chapter 7 of this Code.

G. This Section shall be construed as an addition to and not inconsistent with applicable sections of the Uniform Fire Code, 1979¹.

D. In the event that the person to whom such emergency order is issued fails or refuses to immediately comply therewith, the Building Official may request, without prior notice to any party, that the Department of Public Works take such action as required by the terms of the emergency order. The provisions of Part 4 of this Article shall apply to such emergency abatement.

E. The Building Official shall, either simultaneously with or as soon after the issuance of an emergency order as possible, institute action in accordance with the provisions of this Article to permanently abate the dangerous building or structure. (Ord. 84-282)

16-5-210: EMERGENCY ORDERS:

A. If any building or structure constituting a dangerous building under this Article is in such condition as to make it immediately dangerous to life, limb, property or the safety of the public or its occupants, the Building Official may, in addition to ordering that the building or structure be vacated pursuant to Section 16-5-208 of this Article, issue an order, without prior notice and hearing, declaring that an emergency exists and requiring that such temporary action, not constituting either repair in accordance with the current Building Code or demolition, be taken as deemed necessary to abate the emergency.

B. The order authorized in subsection A hereof may be issued to the record owner of the property, his agent, or any person entitled to notice under Section 16-5-205 of this Article. Notwithstanding any provision of this Article to the contrary, such order shall be effective immediately.

C. Any person to who such emergency order is issued shall comply therewith immediately, and it shall be unlawful to fail or refuse to so comply.

¹. See Article 2 of Chapter 20 of this Code for Uniform Fire Code provisions.

CHAPTER 16 BUILDING

ARTICLE 5 DANGEROUS BUILDINGS CODE

PART 3 APPEALS AND HEARINGS

SECTION:

16-5-301: Form of Appeal
 16-5-302: Effect of Failure to Appeal
 16-5-303: Staying Order Under Appeal
 16-5-304: Processing Appeal
 16-5-305: Scope of Hearing on Appeal
 16-5-306: Procedure for Hearing Appeals
 16-5-307: Form of Notice of Hearing
 16-5-308: Subpoenas
 16-5-309: Conduct of Hearing
 16-5-310: Method and Form of Decision
 16-5-311: Enforcement of Order
 16-5-312: Failure to Obey Order
 16-5-313: Extension of Time
 16-5-314: Work Performance on Repair or Demolition
 16-5-315: Interference With Repair or Demolition

16-5-301: **FORM OF APPEAL:** Any person entitled to service under Section 16-5-205 may appeal from any notice and order to any action of the Building Official by filing at the office of the Building Official, within thirty (30) days from the date of the service of such order a written appeal containing:

- A. A heading in the words: Before the Board of Appeals of the City of Colorado Springs, Colorado.
- B. A caption reading: Appeal of _____ giving the names of all appellants participating in the appeal.
- C. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
- D. A brief statement, in ordinary and concise language, of the specific order or action protested, together with any material facts claimed to support the contentions of the applicant.
- E. A brief statement, in ordinary and concise language, of the relief sought and the reasons

E) why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

F. The signature of all parties named as appellants, and their official mailing addresses.

G. The verification (by declaration under penalty or perjury) of at least one appellant as to the truth of the matters stated in the appeal. (Ord. 84-282)

16-5-302: EFFECT OF FAILURE TO APPEAL:

Failure of any person to file an appeal in accordance with the provisions of Section 16-5-301 shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion thereof. (Ord. 84-282)

16-5-303: STAYING ORDER UNDER APPEAL:

Except for vacation orders made pursuant to Section 16-5-308 OR EMERGENCY ORDERS ISSUED PURSUANT TO SECTION 16-5-210, enforcement of any notice and order of the Building Official issued under this Code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed. (Ord. 84-282)

16-5-304: **PROCESSING APPEAL:** Upon receipt of any appeal filed pursuant to this Section, the Building Official shall present it at the next regular or special meeting of the Board of Appeals.

As soon as practicable, after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each

appellant by the secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal. (Ord. 84-282)

16-5-305: SCOPE OF HEARING ON APPEAL: Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal. (Ord. 84-282)

16-5-306: PROCEDURE FOR HEARING APPEALS:

- A. Hearing Examiners. The Board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted by him to the Board for decision.
- B. Records and Reports. A record of the entire proceedings shall be made by tape recording determined to be appropriate by the Board. The proceedings at the hearing shall also be reported by a phonographic, or other reporting system, if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the Board, but shall in no event be greater than the cost involved.
- C. Continuances. The Board may grant continuance for good cause shown, however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by him for good cause shown so long as the matter remains before him.
- D. Oaths; Certification. In any proceedings under this Chapter, the Board, and Board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.
- E. Reasonable Dispatch. The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives. (Ord. 84-282)

16-5-307: FORM OF NOTICE OF HEARING: The notice to appellant shall be substantially in

the following form, but may include other information:

You are hereby notified that a hearing will be held before (the Board or name of hearing examiner) at _____ on the _____ day of _____ 19____, at the hour _____ upon the notice and order served upon you. You may be present at the hearing. You may, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses, and the production of books, documents or other things by filing an affidavit therefor with (Board or name of hearing examiner). (Ord. 84-282)

16-5-308: SUBPOENAS:

- A. Filing of Affidavit. The Board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the Board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness, specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular.
- B. Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.
- C. Penalties. Any person who refuses, without lawful excuse, to attend any hearing or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for herein, shall be guilty of a misdemeanor. (Ord. 84-282)

16-5-309: CONDUCT OF HEARING:

- A. Rules. Hearings need not be conducted according to the technical rules relating evidence and witnesses.
- B. Evidence.
 - 1. Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

- B) 2. Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this State.

3. Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State.

4. Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

- C. Rights of Parties. Each party shall have these rights among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;

2. To introduce documentary and physical evidence;

3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

4. To impeach any witness regardless of which party first called him to testify;

5. To rebut the evidence against him;

6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

- D. Official Notice.

1. What May be Noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of the State or of official records of the Board or Departments and ordinances of the City or rules and regulations of the Board.

2. Parties to be Notified. Parties present at the hearing shall be informed of the matters to be

- D) noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

3. Opportunity to Refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board or hearing examiner.

4. Inspection of the Premises. The Board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing provided that

(a) Notice of such inspection shall be given to the parties before the inspection is made.

(b) The parties are given an opportunity to be present during the inspection, and

(c) The Board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom.

Each party then shall have a right to rebut or explain the matters so stated by the Board or hearing examiner. (Ord. 84-282)

16-5-310: METHOD AND FORM OF DECISION:

- A. Hearing Before Board. Where a contested case is heard before the Board itself, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.
- B. Hearing Before Examiner. If a contested case is heard by a hearing examiner alone, he shall, within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the Board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the Board as its decision in the case. All examiner's reports filed with Board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the Board.

- C. Consideration of Report by Board; Notice. The Board shall fix a time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five (5) days prior to the date fixed, unless it is otherwise stipulated by all of the parties.
- D. Exceptions to report. Not later than two (2) days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the Board, any party may present oral argument to the Board.
- E. Disposition of the Board. The Board may adopt or reject the proposed decision in its entirety or may modify the proposed decision. If the proposed decision is not adopted, the Board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, he shall prepare a report and proposed decision as provided in subsection B hereof after any additional evidence is submitted. Consideration of such proposed decision by the Board shall comply with the provisions of this Section.
- F. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him at the address set forth in the appeal by certified mail, postage prepaid, return receipt requested.
- G. Effective Date of Decision. The effective date of the decision shall be as stated therein. (Ord. 84-282)

16-5-311: ENFORCEMENT OF ORDER: After any order of the Building Official or the Board of Appeals made pursuant to this Article shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor. (Ord. 84-282)

16-5-312: FAILURE TO OBEY ORDER:

- A. If, after any order of the Building Official or Board of Appeals made pursuant to this Article has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may
 - 1. Cause such person to be prosecuted under Section 16-5-311 above, or
 - 2. Institute any appropriate action to abate such building as a public nuisance.
- B. Whenever the required repair or demolition is not commenced within thirty (30) days after any final notice and order issued under the Article becomes effective:
 - 1. The Building Official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING

DO NOT OCCUPY

It is a misdemeanor to occupy this building or to remove or deface this notice.

Building Official
City of Colorado Springs, Colorado

2. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Building Official have been completed and a certificate of occupancy issued pursuant to the provisions of the Regional Building Code.¹

3. The Building Official may in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order, or, if the notice and order required demolition, to cause building to be sold and demolished or demolished and the materials, rubble and debris

¹. See Sections 16-4-201 et. seq. of this Code.

- B3) therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this Code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto. (Ord. 84-282)

16-5-313: EXTENSION OF TIME: Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Official may, in his discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days within which to complete said repair, rehabilitation or demolition, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order. (Ord. 84-282)

16-5-314: WORK PERFORMANCE ON REPAIR OF DEMOLITION:

- A. Procedure. When any work or repair demolition is to be done pursuant to Section 16-5-312 hereof, the Building Official shall issue his order therefor to the Director of Public Works and the work shall be accomplished by City personnel or by private contract under the direction of said Director. Plans and specifications therefor may be prepared by said Director, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.
- B. Cost. The cost of such work shall be paid from the General Fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the City Council shall determine is appropriate. (Ord. 84-282)

16-5-315: INTERFERENCE WITH REPAIR OR DEMOLITION: No persons shall obstruct, impede or interfere with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of the this Article, or with any person to whom such building has been lawfully sold pursuant to the provisions hereof whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating, and repairing, or demolishing and such building, pursuant to the provisions of this Article, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Article. (Ord. 84-282)

CHAPTER 16 BUILDING

ARTICLE 5 DANGEROUS BUILDINGS CODE

PART 4 RECOVERY OF COSTS

SECTION:

- 16-5-401: Report Account of Expenses
- 16-5-402: Protest and Objections
- 16-5-403: Hearing on Report, Protests
- 16-5-404: Personal Obligation or Special Assessment
- 16-5-405: Contest Assessment
- 16-5-406: Lien of Assessment
- 16-5-407: Report to Assessor and Tax Collector
- 16-5-408: Collection of Assessment
- 16-5-409: Repayment of Repair and Demolition Fund

16-5-401: REPORT ACCOUNT OF EXPENSES: The Director of Public Works shall keep an itemized account of the expenses incurred by the City in the repair or demolition of any building done pursuant to the provisions of Section 16-5-312B3 of this Article. Upon the completion of the work of repair or demolition, said Director shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 16-5-205.

Upon receipt of said report, the City Clerk shall fix a time, date and place for hearing said report, and any protest of objections thereto. The City Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appears on the assessment roll of the County Assessor, if such so appears or as known to the Clerk. Such notice shall be given at least ten (10) days prior to the date set for hearing, and shall specify the day, hour and place when the Council will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge. (Ord. 84-282)

16-5-402: PROTEST AND OBJECTIONS: Any person interested in or affected by the proposed charge must file written protests or objections with the City Clerk within ten (10) days after the mailing of the notice of hearing to the owner of the property. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The City Clerk shall endorse on every such protest or objection the date it was received by him and shall present such protests or objections to the City Council at the time set for the hearing. No other protests or objections shall be considered. (Ord. 84-282; Ord. 86-14)

16-5-403: HEARING ON REPORT, PROTESTS:

Upon the day and hour fixed for the hearing, the City Council shall hear and pass upon the report of the Director together with any such objections or protests. The Council may make such revision, correction or modification in the report or the charge as it may deem just; and when the Council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge shall be confirmed or rejected. The decision of the City Council on the report and the charge, and on protests or objections, shall be final and conclusive. (Ord. 84-282)

16-5-404: PERSONAL OBLIGATION OR SPECIAL ASSESSMENT:

The City Council may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

- A. Personal Obligation. If the City Council orders that the charge shall be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the City by use of all appropriate legal remedies.

B. Special Assessment. If the City Council orders that the charge shall be assessed against the property it shall confirm the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property, and shall be collected in the same manner as other special assessments of the City.¹

C. Authority for Installment Payments. Eligible persons who are determined to have such a marginal income that they cannot pay as assessment or personal obligation levied under this Article, either against the property on which they reside or against themselves personally, may be afforded relief as herinafter provided.

1. Within thirty (30) days after the assessment or the personal obligation is ordered by the Council, the application for relief shall be filed with the City Clerk.

2. The Hardship Committees established by and in accordance with Section 19-7-801, shall review the application for the relief from the assessment or personal order. In order to determine the applicant's eligibility, the Committee shall use the criteria established in Section 19-7-804, except that ownership of real property need not be required.

3. If it is determined that the applicant is eligible and that any such person would probably default on the assessment, the Committee may authorize the execution with the applicant of an installment note for the payment of the assessment or personal obligation. The note shall be secured by a deed of trust, or if not available, by such other security reasonably available or appropriate. If no security is reasonably available or appropriate, then none shall be required. The installment note shall provide that the property owner shall make monthly payments to the City Treasurer; that such payments shall not be less than five dollars (\$5.00) and shall be sufficient to repay the amount within a period of not more than twenty five (25) years; that interest shall be charged at the rate of three percent (3%) per annum on the unpaid balance; that the entire outstanding balance shall become due and payable upon the death of the obligor or the sale or transfer of the property; that if at any time the City determines that the obligor is financially able to pay the outstanding balance, or that he

B3) has wilfully misrepresented his financial condition on his application, it may upon sixty (60) days' notice declare the entire balance due any payable. (Ord. 84-282)

16-5-405: CONTEST ASSESSMENT: The validity of any assessment made under the provisions of this Article shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after the entry of such judgment. (Ord. 84-282)

16-5-406: LIEN OF ASSESSMENT:

A. Priority. Immediately upon its being placed on the assessment roll shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property, and shall be paramount to all other liens except for State, County and Municipal taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

B. Interest. All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of one percent (1%) per month from and after said date. (Ord. 84-282)

16-5-407: REPORT TO ASSESSOR AND TAX COLLECTOR: After confirmation of the report, certified copies of the assessment shall be given to the County Treasurer on or before October 15. (Ord. 84-282)

16-5-408: COLLECTION OF ASSESSMENT: The amount of the assessment shall be collected at the same time and in the same manner as general taxes are collected; and shall be subjected to the same penalties and procedure and sale in case of delinquency as provided for general Municipal taxes.

¹ See Chapter 7, Article 1 of this Code.

All laws applicable to the levy, collection and enforcement of general Municipal taxes shall be applicable to such assessment.

If the City Council has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as general and Municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for general Municipal taxes. (Ord. 84-282)

16-5-409: REPAYMENT OF REPAIR AND DEMOLITION FUND: All money recovered by payment of the charge or assessment or from the sale of property at foreclosure sale shall be paid to the City Treasurer who shall credit the same to the Repair and Demolition Fund. (Ord. 84-282)

CHAPTER 16 BUILDING
ARTICLE 6 CONTRACTORS
PART 1 GENERAL PROVISIONS

SECTION:

- 16-6-101: Definitions
- 16-6-102: Licenses Required
- 16-6-103: Applications; Qualifications
- 16-6-104: Examination of Applicants; Issuance of Licenses; Registration
- 16-6-105: Insurance Requirements
- 16-6-106: Responsibility of Contractors
- 16-6-107: Continuation of Business, Re-Examination
- 16-6-108: Expiration of License and Registrations; Renewals
- 16-6-109: Revocation or Suspension of Licenses and Registrations

16-6-101: DEFINITIONS:

- A. **CONTRACTOR:** Contractor within the meaning of this Code is any person, firm, partnership, corporation, association or other organization or any combination thereof who builds, constructs, alters, adds to, repairs, moves or wrecks any building or structure either on his own or other property as an occupation, having a qualified examinee or registrant as an employee or principal. All licenses or registrations required under this Code shall be issued in the name of the contractor.
- B. **EXAMINEE:** An examinee is an individual who has passed a test required by the Building Official evidencing satisfactory knowledge of the examinee, and who has been found qualified by the appropriate committee as to training and experience to do the type of work contemplated under the specific Contractor's license applied for. An examinee may be the examinee for only one contractor at any given time.
- C. **PRINCIPAL:** Any officer or director of a corporation, any general partner in a general or limited partnership, or any venture partner in a joint venture shall be deemed to be a principal.

- D. **REGISTRANT:** A registrant is a master plumber or master electrician licensed in the State of Colorado and registered in this jurisdiction as provided in Section 16-6-104A1. (Ord. 86-157)

16-6-102: LICENSES REQUIRED: Licenses shall be required as hereinafter specified in this Section and it shall be a violation of this Code for any person to contract to perform any work covered by the Building Code without a license.

A. Exceptions:

- 1. A homeowner may secure a permit without obtaining a license on only one R-3 occupancy in any twelve (12) month period. Said residence must be for the personal occupancy of the homeowner. The construction of more than one residence by a person in any one twelve (12) month period or the construction of a total of five (5) residences over any period shall be construed to establish that the homeowner must meet the requirements of a contractor, including licensing. The above also includes buildings or structures accessory thereto, intended for the homeowner's own personal use and occupancy.
- 2. Owners or agents may perform ordinary maintenance or repair which does not involve the structure of the building. Owners, other than homeowners, are not allowed to do remodeling, alterations or additions. This work must be done by a licensed contractor. (Ord. 86-157)

16-6-103: APPLICATIONS; QUALIFICATIONS:

Applications for licenses and registrations shall be on forms supplied by the Building Department and shall require such information as the appropriate committee may request, and shall be accompanied by the required fees as set out in Part 7 of Article 6 of this Chapter. Applicants must be at least eighteen (18) years of age. (Ord. 86-157)

16-6-104: EXAMINATION OF APPLICANTS; ISSUANCE OF LICENSES; REGISTRATION:

- A. All applicants for licensing under this Code must have an examinee take the examination required by the Building Official. Examinations shall be given at reasonable intervals. If the examinee fails the first examination, he may take another after thirty (30) days. If he fails the second or any subsequent examination, he may take another after six (6) months. The committees may deviate from this time requirement when they feel there are extenuating circumstances.

1. Exception: Whenever the laws of the State of Colorado require that a particular trade be licensed by the State, examination and licensing by this jurisdiction shall be waived. Instead, such contractors shall register with the Building Official. A current state license shall be a prerequisite for registration, which shall be issued upon payment of the annual fee and evidence of insurance as prescribed in this Code.

- B. 1. The Building Official shall cause to be published in a local newspaper with regional coverage a list of all contractor license applicants and solicit commentary from the public at least two (2) weeks prior to consideration of the licenses by the Board of Review.

2. If, in the opinion of the Board of Review, after recommendation by the appropriate Committee, the applicant for a license is qualified by knowledge, training, and experience to do the type of work envisioned under the specific contractor's license applied for, it shall direct the Building Official to issue the applicant a license upon payment of the annual fee prescribed in Part 7, Article 6 of this Code and upon providing evidence of the required insurance. Each annual fee shall be in addition to the application fee. As concerns evidence of knowledge, the successful passing of examinations required by this jurisdiction shall be deemed prima facie evidence of the requisite knowledge of contractor's examinee. Determination and evaluation of experience and training shall be accomplished by the respective committees under guidelines set forth from time to time by the Building Official.

- C. Special Limited Licenses. Any committee referred to in Section 16-1-404 may recommend, and the Board of Review shall have the

- C. authority to grant to any applicant, a special limited license, for the sole purpose of evaluating the training and experience of an applicant who has otherwise fulfilled all the Code requirements prerequisite to the granting of any contractor's license authorized under Part 2 of Article 6 of this Chapter. Said special limited license shall be issued only for work authorized under the specific contractor's license applied for by the applicant and shall terminate after the completion of work done pursuant to any permits issued for work covered by said special limited license. The committee shall, after completion of the work authorized by any permits, cause said work to be reviewed and shall report their recommendations concerning the applicant's qualifications in the license category applied for to the Board of Review for its consideration of the original application for the specific contractor's license requested.
- D. No permits shall be issued to any contractor who has not first obtained a license or registration as required in this Code or who is delinquent in the payment of the respective annual fee, or whose license or registration has been suspended or revoked by action of the Board of Review.
- E. On any work requiring a licensed contractor, permits shall be issued only to the contractor or to his authorized representative.
- F. No person or entity convicted by a court having competent jurisdiction for a felony, or for civil or criminal fraud, constructive or actual, for work related to any license issued by this jurisdiction or for work related to the building trades in any jurisdiction, shall be granted a license or registration or serve as an examinee for a contractor in this jurisdiction. (Ord. 86-157)

16-6-105: INSURANCE REQUIREMENTS:

- A. Before a license or registration can be issued, the contractor shall file with the Building Official a certificate signed by a licensed agent of an insurance company stating that the worker's compensation and general liability (including premises/operations and products/completed operations) policies required by this Code have been issued to the contractor. Such certification shall include the policy number or numbers, the name of the company, the effective and expiration dates, and the limits of such policies. The following minimum coverages shall be required:

A)

License Category	General Liability Policy		C.S.L. *	Worker's Compensation**	Explosion Collapse & Underground
	Bodily Injury	Property Damage			
Building Contr. A	100,000/300,000	100,000	500,000	Required	--
Building Contr. B-1	"	"	"	"	--
Building Contr. B-2	"	"	"	"	--
Building Contr. C	"	"	"	"	--
Building Contr. D					
1. One Trade Only	50,000/100,000	"	300,000	"	--
2. Wrecking Contr. A	300,000/500,000	"	750,000	"	500,000
3. Wrecking Contr. B	100,000/300,000	"	500,000	"	200,000
4. Moving Contr.	100,000/300,000	"	500,000	"	--
5. Sign Contr. A	50,000/100,000	"	300,000	"	--
6. Sign Contr. B	"	"	"	"	--
Building Contr. E	"	"	"	"	--
Building Contr. F-1	"	"	"	"	--
Building Contr. F-2	"	"	"	"	--
Concrete Contr.	300,000/300,000	"	400,000	"	--
Electrical Contr.	"	"	"	"	--
Heating Contr. A	"	"	"	"	--
Heating Contr. B	"	"	"	"	--
Heating Contr. C	50,000/100,000	"	300,000	"	--
Plumbing Contr.	100,000/300,000	"	500,000	"	--
Water Conn. Appl.	50,000/100,000	"	300,000	"	--

*Combined Single Limit

**Sole proprietors and partnerships with no employees shall not be required to carry Worker's Compensation Insurance.

Exception: If a wrecking contractor, or a building contractor acting as a wrecking contractor, proposes to demolish a building that is, in the opinion of the Building Official, sufficiently removed from other buildings or structures so as not to become a hazard or cause damage to such other buildings or structures during the course of demolition, the Building Official, at his discretion, may waive the Explosion, Collapse and Underground provisions of this Code.

- B. Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the Regional Building Department at least ten (10) days in advance of the effective date of any reduction or cancellation of the policy. The lapse, cancellation or reduction of insurance shall be cause for automatic suspension of the license until the required coverages are reinstated. (Ord. 86-157)

16-6-106: RESPONSIBILITY OF CONTRACTORS:

A contractor shall be responsible for all work included in his contract whether or not such work is done by him directly or by one of his subcontractors. (Ord. 86-157)

16-6-107: CONTINUATION OF BUSINESS; RE-EXAMINATION:

The respective contractor's rights to do business shall be dependent upon the continued retention of the examinee or registrant as an employee or principal. Whenever the examinee's or registrant's employment is terminated, the contractor shall immediately notify the Building Official. Upon termination, there shall be a thirty (30) day grace period in order to acquire a qualified replacement before automatic termination of the license or registration and re-registration or re-examination and approval by the Board of Review are required. (Ord. 86-157)

16-6-108: EXPIRATION OF LICENSES AND REGISTRATIONS; RENEWALS:

- A. All licenses and registrations shall expire on the last day of the twelfth calendar month following the date of issuance unless otherwise provided. Regardless of the actual renewal date, the licensing period shall be as established by the original issue date.
- B. No permits may be obtained, nor work already under permit be continued, after the expiration date until the license or registration has been renewed as provided for herein.
- C. Licenses and registrations may be renewed by the Building Official without re-examination upon the payment of the fees for the current year, providing the license or registration has not been suspended or revoked by action of the Board of Review and providing the renewal is done within forty five (45) days of the expiration date of the license. Failure to renew a license within said forty five (45) day period after expiration date of license will necessitate re-application, examination, evaluation by the respective committee and approval by the Board of Review. Neither license nor registration fees shall be prorated for any portion of a year.
- D. A late renewal will not serve to change the license period. (Ord. 86-157)

16-6-109: REVOCATION OR SUSPENSION OF LICENSES AND REGISTRATIONS:

- A. Definitions:

INCIDENT REPORT: As used in Sections 16-6-109B4 and 16-6-109B5, an "incident report" is a written record of less serious though substantial or repeated code violations by a contractor and/or its examinee or registrant. Incident reports shall be kept in the contractor's and/or examinee's or registrant's permanent file, with a copy to any party cited, for a period of three (3) years at which time they will be discarded. "Incident reports" may be filed by advisory committees, the Board of Review, or the Building Official.

LETTER OF REPRIMAND: As used in Section 16-6-109B4 and Section 16-6-109B5, a "letter

- A) of reprimand" is a written admonishment issued by either the advisory committee or the Board of Review, to be placed and remain in a contractor's and/or examinee's or registrant's permanent file, with a copy provided to any party cited, evidencing a finding of serious code violations or ordinary negligence related to work performed under this Code.

ORDINARY NEGLIGENCE: As used in Section 16-6-109C7, "ordinary negligence" is defined as a failure to do an act which a reasonably careful contractor or other person would do, or the doing of an act which a reasonably careful contractor or other person would not do, under the same or similar circumstances to protect his client or the public from injury or property damage. An act required to be done under this Code shall be presumed to be an act done to protect the public from injury or property damage.

REVOCATION: "Revocation" as used in this Section shall be defined as the removal of a contractor's license or registration or the right of a contractor's principals or examinee or registrant to serve as a contractor or examinee or registrant for another contractor for an unlimited time. Upon revocation of a license or registration, the contractor shall immediately stop all work underway that is covered by this Code. Such work shall not resume until an appropriately licensed or registered contractor obtains a permit for said work.

SUSPENSION: "Suspension" as used in this Section shall be defined as the temporary removal of a contractor's license or registration or the right of a contractor's principals or examinee or registrant to serve as a contractor or examinee or registrant for another contractor for a period of time to be specified by the Board of Review, but not to exceed six (6) months. Upon suspension of a license or registration, the contractor shall immediately stop all work underway that is covered by this Code. Such work shall not resume until an appropriately licensed or registered contractor obtains a permit for said work or until the suspension is lifted, in which case the contractor may resume the work after obtaining a valid permit for said work.

2. WILLFUL AND WANTON NEGLIGENCE: As used in Section 16-6-109C6, "willful and wan-

- A) "negligence" is the doing of an act, or the failure to do an act which creates a substantial degree of risk of harm to another or another's property, and the contractor or other person doing the act, or failing to act, is aware of such risk and thereafter purposefully does the act, or fails to act, without any reasonable justification, in disregard of the consequences or of the rights and safety of the other or his property.

WILLFULLY: As used in Section 16-6-109C1, "willfully" is defined as designed; intentional; not accidental or involuntary; proceeding from a conscious motion of the will. A willful act may be described as one done intentionally, knowingly, and purposefully, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently.

B. Complaint Procedures:

1. The Building Official shall, upon receipt of a written complaint, sworn to before a notary public, alleging violations of this Code, require any contractor licensed or registered pursuant to this Code, and/or his examinee or registrant, to appear before any duly appointed advisory committee for hearing said complaint. The Building Official may also, at his own discretion, require any contractor licensed or registered pursuant to this Code, and/or its examinee or registrant, to appear before said advisory committee for hearing of a complaint of the Building Official.

2. The contractor and/or its examinee or registrant shall be given a copy of the complaint and written notice of the time and the place of any contemplated hearing before an advisory committee at least twenty (20) days prior to said hearing. The written notice and complaint shall be served personally or posted by certified mail, return receipt requested, to the contractor's and/or its examinee's or registrant's last known mailing address.

3. At any hearing before an advisory committee, the contractor and/or its examinee or registrant shall be entitled to have the benefit of legal counsel of his or its own choosing and at his or its own expense and shall have the right to present his or its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

- B) 4. An advisory committee, after review of the evidence presented, shall have the power by majority vote to have an incident report or letter of reprimand entered in the contractor's and/or its examinee's or registrant's permanent files if he or it is found to have violated provisions of this Code. If the committee finds evidence of any act or omission in Section 16-6-109C, it may recommend a hearing before the Board of Review for its consideration. Any such hearing shall be held pursuant to the provisions of paragraphs 2 and 3 above.

5. If, in the opinion of three (3) of the five (5) members of the Board of Review, the evidence presented at any hearing before it supports a finding that the contractor and/or its examinee or registrant committed one or more of the acts or omissions in Section 16-6-109C, the Board of Review shall have the power to:

a. Suspend or revoke said contractor's license.

b. Suspend or revoke the right of said contractor's principals and/or examinee or registrant to be licensed as a contractor or serve as examinee or registrant for another contractor in the future.

c. Issue a letter of reprimand to the contractor and/or its examinee or registrant.

d. Issue an incident report to the contractor and/or its examinee or registrant.

C. Punishable Acts and Omissions:

1. Willfully violating any provisions of this Code including any codes which are adopted by reference.

2. Failure to comply with any lawful order of the Building Official or of any other authorized representative employed by the Regional Building Department pertaining to the administration of this Code and those codes adopted by reference.

3. Using a contractor's license to obtain permits required under this Code for work that will not be performed by or supervised by the contractor.

4. Misrepresentation by an applicant of a material fact when applying for a contractor's license.

- C) 5. Failure to obtain a proper permit for any work for which a permit is required by virtue of this Code.

6. Commitment of any act of willful and wanton negligence in the conduct of the contractor's or other persons's specific trade or business on work done by the contractor or other person which is regulated by the provisions of this Code.

7. Ordinary negligence of the contractor or other person evidenced by letters of reprimand and/or incident reports received by the contractor within a three (3) year time period, which are, in the judgment of the Board of Review, sufficient in number and severity to warrant revocation or suspension of the contractor's license.

- D. Automatic Revocation or Suspension: A license or registration, or the right of an examinee or principal of the contractor to serve as a contractor or as an examinee of a contractor, shall automatically be suspended or revoked by the Building Official as follows:

1. Registrations within this jurisdiction shall be automatically revoked or suspended upon revocation, suspension or refusal to renew any required Colorado State license.

2. Any license or registration within this jurisdiction shall be automatically suspended upon lapse, cancellation, or reduction of insurance coverages below those required by Section 16-6-105 of this Code. Said suspension shall remain in effect until proof of the reinstatement of the required coverages is presented to the Regional Building Department. Failure to present such proof within twelve (12) months of such lapse, cancellation, or reduction shall result in automatic revocation of the license or registration.

3. Conviction by a court having competent jurisdiction of the contractor and/or its examinee or registrant for a felony, or for civil or criminal fraud, constructive or actual, for work related to any license under this Code, shall result in automatic revocation of the license or registration and revocation of the right of the examinee, registrant, or principals of the contractor to serve as contractor or examinee or registrant for

- D3) another contractor after notification by the Board of Review. Said notification shall be served personally or posted by certified mail, return receipt requested, to the last known mailing address.

E. Voluntary Suspension:

1. The Board of Review may suspend licenses or registrations upon the voluntary written request for such action by the contractor. Such suspensions shall not exceed a period of twelve (12) months unless notarized annual certification from the contractor's employer is furnished indicating that the contractor is engaged in an active capacity in the field of building construction.

2. While under voluntary suspension, the contractor need not carry insurance, but shall be responsible for all license or registration fees normally due.

3. The voluntary suspension shall be automatically lifted at any point during the twelve (12) month period under the following conditions:

a. Written request is made to the Board of Review by the contractor.

b. Proof of insurance is provided in accordance with Section 16-6-105 of this Code.

4. In the event the contractor does not rescind the voluntary suspension within the twelve (12) month period as provided in paragraph 3 above, or furnish proof of active engagement in the construction field, as provided in paragraph 1 above, he must meet all requirements of Section 16-6-104 and 16-6-105 of this Code to obtain a new license or registration.

- F. Appeal: Appeals shall be in accordance with Section 16-1-105 of this Code.

- G. Reinstatement of License or Registration: The Board of Review may reinstate a license or registration or the right to serve as a contractor or as the examinee of a contractor to any contractor or examinee, registrant, or principal whose license or right to serve has been revoked, provided three (3) members of the Board of Review vote in favor of such reinstatement for such reason as the Board may deem sufficient. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 6 CONTRACTORS

PART 2 BUILDING CONTRACTORS

SECTION:

- 16-6-201: Application and Examination
- 16-6-202: Building Contractor A (General)
- 16-6-203: Building Contractor B (General-Limited)
- 16-6-204: Building Contractor C (Home Builder)
- 16-6-205: Building Contractor D (Specialty)
- 16-6-206: Building Contractor E (Maintenance and Remodeling)
- 16-6-207: Building Contractor F (Solar-Energy)

16-6-201: **APPLICATION AND EXAMINATION:** In accordance with Section 16-6-103 and Section 16-6-104 of this Code, the Building Committee shall review applications and examinations, and make appropriate recommendations to the Board of Review for the following classes of contractors' licenses. (Ord. 86-157)

16-6-202: **BUILDING CONTRACTOR A (GENERAL):** This license shall entitle the holder to contract for the construction, alteration or repairing of any type or size of structure permitted by the Uniform Building Code. (Ord. 86-157)

16-6-203: **BUILDING CONTRACTOR B (GENERAL-LIMITED):**

- A. Building Contractor B-1: This license shall entitle the holder to contract for the construction, alteration or repair of any type of occupancy classification allowed by this Code, with the exception of any building that requires Type I or Type II fire resistive construction and also any A, E or I occupancies as specified in the Uniform Building Code.
- B. Building Contractor B-2: This license shall entitle the holder to contract for nonstructural remodeling in all occupancies, with the excep-

- B) tion of any building that requires Type I or Type II fire resistive construction and also any A, E, or I occupancies. Further, this license shall entitle the holder to contract for any work authorized under a Building Contractor C license, the construction of B-2 occupancies of not more than one story in height and not more than seven thousand five hundred (7,500) square feet in area, and R-1 occupancies of not more than two (2) stories in height and not more than twenty one thousand (21,000) square feet in total area. (Ord. 86-157)

16-6-204: **BUILDING CONTRACTOR C (HOME BUILDER):** This license shall entitle the holder to contract for the construction, alteration and repair of R-3 and M occupancies of not more than three (3) stories in height. Further, the holder shall be entitled to construct, alter and repair R-1 occupancies with up to six (6) units and not more than two (2) stories in height. When in the opinion of the Building Official the work to be performed is minor and does not affect the structure of the building, the holder of this license may also contract for nonstructural repair and remodeling of all buildings with the exception of groups A, E, and I occupancies or buildings which are required to be constructed of Types I or II fire resistive construction. (Ord. 86-157)

16-6-205: **BUILDING CONTRACTOR D (SPECIALTY):** This license shall be issued by the Board to those engaged in contracting as other than a Building Contractor A, B, or C as licensed in this Code for labor or for labor and material involving only one trade, such as masonry contractors, plastering contractors, and elevator contractors and also those specifically spelled out under this license in the various categories.

- A. One Trade Only Contractors: This license limits the licensee to contract for work only in the single trade designated on the license.
- B. Wrecking Contractors:

- B) 1. Class A Wrecking Contractor. The examinee must have at least four (4) years' experience in wrecking. This contractor may wreck any building.

2. Class B Wrecking Contractor. The examinee must have at least two (2) years' experience in wrecking. This contractor may wreck any building up to and including two (2) stories.

3. The owner of a one or two (2) family dwelling or an accessory structure thereto may wreck said dwelling or structure without a licensed contractor, provided such owner shall show proof of and maintain for the duration of the work the same property damage, public liability, and explosion, collapse, and underground insurance as required for a Class B Wrecking Contractor.

4. A licensed Building Contractor A, B, or C may wreck minor buildings or remove portions of a building at the discretion of the Building Official when such wrecking is a portion of a program of alteration or remodeling. When performing wrecking, such licensed building contractor shall show proof of inclusion in his liability insurance policy of the same explosion, collapse, and underground provisions as those required of a Class B Wrecking Contractor.

5. Except as specifically permitted above, no wrecking shall be done by other than a licensed wrecking contractor.

- C. Moving Contractors. This license shall entitle the holder to contract for the moving of buildings and structures along the roads and streets in this jurisdiction.

- D. Sign Contractors.

1. Sign Contractor A. This license shall entitle the holder to contract for the erection, enlargement, moving and maintenance or removal of all signs governed under this Code. A Building Contractor A or B may also perform the functions of a Sign Contractor A.

2. Sign Contractor B. This license shall entitle the holder to perform all work of a Sign Contractor A except that it shall not allow the Sign Contractor B to do the following work:

- D2) a. Free standing signs over twenty feet (20') high.

b. Electric signs.

A Sign Contractor B may repaint or maintain any sign. A Building Contractor C may also perform the functions of a Sign Contractor B. (Ord. 86-157)

16-6-206: **BUILDING CONTRACTOR E (MAINTENANCE AND REMODELING):**

This license shall entitle the holder to contract for minor structures such as fences, sheds, patio covers and private detached garages in connection with R-3 and M occupancies and for minor repair or remodeling of R-3 and M occupancies which do not affect the structure of the building. (Ord. 86-157)

16-6-207: **BUILDING CONTRACTOR F (SOLAR ENERGY):**

- A. Building Contractor F-1, Unlimited: This license shall entitle the holder to contract for the installation of all kinds of active solar heating and cooling systems and to make the necessary connections to related equipment. The work done under this license shall be limited to the solar collector installation and its connection to the existing gas, plumbing and heating systems.

- B. Building Contractor F-2, Limited: This license shall entitle the holder to contract for the installation of all kinds of active solar heating and cooling systems but shall require that all connections and equipment related to the system be connected or installed by contractors properly licensed to do so.

- C. A licensed Building Contractor A, B, or C may act as a Solar Energy Contractor F-2, Limited. (Ord. 86-157)

CHAPTER 16 BUILDING
ARTICLE 6 CONTRACTORS
PART 3 CONCRETE CONTRACTORS¹

SECTION:

- 16-6-301: License Required
- 16-6-302: Application for License; Fee, Term
- 16-6-303: Bond, Insurance Requirement
- 16-6-304: Permit, Inspections Required
- 16-6-305: Specifications
- 16-6-306: Responsibility of Licensees
- 16-6-307: Revocation of License

16-6-301: LICENSE REQUIRED: No person shall construct or repair a sidewalk, curb and gutter or driveway, or contract to construct or repair a sidewalk, curb and gutter or driveway within the City right of way without first obtaining a license and a permit to do so, except as otherwise provided in this Section. No license or permit shall be issued except as provided in this Part. (Ord. 84-282)

16-6-302: APPLICATION FOR LICENSE; FEE, TERM: Any person desiring such license shall make application therefor to the City Clerk on form provided by the City Clerk. The written application shall state the name and address and principal place of business of the applicant. Such license shall be issued by the City Clerk upon payment to the City of the fee set out in Section 16-6-807 of this Code. All licenses issued under this Section shall, unless sooner suspended or revoked, expire on June 30 of each year, and such license may be renewed no later than thirty (30) days after the expiration for the same fee as the initial fee. The City Clerk shall keep a record of all licenses issued. (Ord. 84-282)

16-6-303: BOND, INSURANCE REQUIREMENT: Before a license is issued, the applicant shall file with the City Clerk one five thousand dollar (\$5,000.00) surety bond in a form approved by the City Attorney. The bond shall be conditioned for the faithful compliance with all the provisions of this Code and other ordinances of the City relating to the construction and repair of sidewalks, curb and gutter,

or driveways, and that the licensee shall pay to the City any and all damages of every kind caused by the negligence of the licensee in the construction and repair of sidewalks, curb and gutter or driveways within the City right of way or damage from lack of proper protection in the construction and repair of the sidewalks, curb and gutter or driveways, or from the noncompliance with any of the provisions of this Code or other ordinances of the City, and that the licensees shall pay all fees due to the City under this Code under any ordinance or under any rules or regulations made in pursuance thereof

No concrete contractor's license shall be issued until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the City also named as insured:

Bodily Injury:	
Each person	\$300,000.00
Each accident	300,000.00
Property Damage:	
Each accident	\$ 50,000.00
Aggregate	100,000.00

Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the City at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the license until coverage shall be reinstated. All policies shall be kept in force for the period of the license.

Provided, however, that public utilities holding a franchise from the City, City departments and other governmental agencies, may be relieved of the obligation of submitting said bond and certificate of insurance by the Department of Public Works.

16-6-304: PERMIT, INSPECTIONS REQUIRED: No person shall proceed to construct or repair

1. For requirements relating to excavations in streets and public ways, see Chapter 19, Article 5, part 2 of this Code.

any sidewalk, curb and gutter, or driveway, without first obtaining a permit from the City Engineer. The written application for permit shall state the name and address and principal place of business of the applicant, the location and dimensions of the installation or removal, and the approximate time which it will be required to complete such work including removing all obstructions, material and debris. Such application shall be submitted to the City Engineer, and if the City Engineer shall approve it, he may order the issuance of the permit. The City Engineer shall make such inspections as are reasonably necessary in the enforcement of this Section. The Department of Public Works shall keep records of all permits issued for period of one year after issuance. (Ord. 84-282)

16-6-305: **SPECIFICATIONS:** In addition to the provisions of this Section, any construction and repair of sidewalk, curb and gutter or driveways shall be in accordance with the Department of Public Works Standard Specifications, and in accordance with all applicable provisions of Part 2 of Article 5 of Chapter 19 of this Code relating to excavations in the public way. (Ord. 84-282)

16-6-306: **RESPONSIBILITY OF LICENSEES:** Such licensed persons shall be responsible for the acts and negligence of their employees and agents. (Ord. 84-282)

16-6-307: **REVOCATION OF LICENSE:** Any license issued pursuant to this Section may be revoked under the provisions of Part 8 of Article 1 of Chapter 8 of this Code. (Ord. 84-282)

CHAPTER 16 BUILDING
ARTICLE 6 CONTRACTORS
PART 4 ELECTRICAL CONTRACTORS

SECTION:

16-6-401: Colorado License Required

16-6-402: Bond

16-6-401: **COLORADO LICENSE REQUIRED:** No license other than a duly issued Colorado electrical contractor's license shall be required; however, Colorado licensed electrical contractors shall register with the Regional Building Department. An annual fee for registration as set out in Section 16-6-707 of this Code shall be charged to cover costs of administration of the registration and its functions. (Ord. 86-157)

16-6-402: **BOND:** If the contractor elects to be billed for his permit fees, he shall post a bond equal to the limit of his anticipated charges, but in no case less than the face value of one thousand dollars (\$1,000.00), guaranteeing payment of fees owed to the Regional Building Department in accordance with Chapter 16, Article 3, Part 2 of this Code. Expiration of the bond shall automatically suspend the permits which it covers until the bond has been replaced or renewed. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 6 CONTRACTORS

PART 5 HEATING CONTRACTORS

SECTION:

16-6-501: Application and Examination
 16-6-502: Heating Contractor A
 16-6-503: Heating Contractor B
 16-6-504: Heating Contractor C
 16-6-505: Heating Mechanic
 16-6-506: Bond

16-6-501: APPLICATION AND EXAMINATION: In accordance with Section 16-6-103 and Section 16-6-104 of this Code, the Mechanical Committee shall review applications and examinations, and make appropriate recommendations to the Board of Review for the classes of contractors' licenses that follow. (Ord. 86-157)

16-6-502: HEATING CONTRACTOR A: This license shall authorize the contractor to obtain permits for gas piping installations. In addition, the contractor may set and vent new, or replace existing, gas appliances which have no air duct connections. (Ord. 86-157)

16-6-503: HEATING CONTRACTOR B: This license shall authorize the contractor to obtain permits for the installation of heating, ventilating and air conditioning systems, with the exception of gas piping. In addition, the contractor may replace existing gas appliances which do not require removal or alteration of rigid gas piping. (Ord. 86-157)

16-6-504: HEATING CONTRACTOR C: This license is limited to a specific area of heating work not otherwise herein provided for and as specified on the license. (Ord. 86-157)

16-6-505: HEATING MECHANIC: A heating mechanic is a skilled worker qualified to

perform work on fuel gas piping on the downstream side of the meter in accordance with Chapter 16, Article 2, Part 2 of this Code.

A. **Examination:** In accordance with Section 16-6-103 and Section 16-6-104 of this Code, the Mechanical Committee shall review applications and examinations, and make appropriate recommendations to the Board of Review for the grades of licenses that follow. There shall be no application fees for these licenses; however, Heating Mechanic I applicants shall pay a ten dollar (\$10.00) examination fee. License fees shall be as set forth in Section 16-6-706 of this Code.

B. **Grades of Mechanics:** The various grades of heating mechanics and their functions and qualifications shall be as set forth in this Section.

1. **Heating Mechanic I (Fitter).** An applicant for Heating Mechanic I license shall have two (2) years experience as a gas pipe fitter-installer and gas serviceman. References shall be supplied establishing this experience. All work must be performed under the direction of a Heating Contractor A except that a registered plumbing contractor who possesses a Heating Mechanic I license may replace water heaters without the direction of a Heating Contractor A.

2. **Heating Mechanic II (Welder).** This license allows a person to engage in the welding of gas piping. All work must be performed under the direction of a Heating Contractor A. At the time of license issuance or renewal, the Heating Mechanic II will submit the results, dated within the past year, of the welding test per Standard Procedure Specification No. WPS RBD 001 for certification. The mechanic will be certified in either gas or electric welding or both based on the test results submitted. The mechanic may certify in the 6G position or in both the 2G and 5G positions. At the time of license renewal, failure to produce current test results shall constitute grounds for denying license renewal.

C. Licensed Mechanics; General Provisions:

1. Any mechanic licensed pursuant to this Section shall be required to carry on his person his current license at all times while he is working in said mechanical trade.

2. Any mechanic duly licensed under this Section may have a helper or helpers to assist him in his work, pursuant to the applicable State Statutes concerning his specific trade, even though said helper or helpers are unlicensed.

a. Any unlicensed helper must work under the immediate and direct supervision of the mechanic licensed under this Section, which licensed mechanic must be physically on the job site at all times that the unlicensed helper is working.

b. "Job site" shall mean the area covered by the building permit, except that in residential construction, it may include any residential construction immediately adjacent thereto.

c. In the event that there is no State Statute applicable to the specific trade, then the number of helpers must bear a reasonable relationship to said duly licensed mechanic. (Ord. 86-157)

16-6-506: **BOND:** If the contractor elects to be billed for his permit fees, he shall post a bond equal to the limit of his anticipated charges, but in no case less than the face value of one thousand dollars (\$1,000.00), guaranteeing payment of fees owed to the Regional Building Department in accordance with Chapter 16, Article 3, Part 2 of this Code. Expiration of the bond shall automatically suspend the permits which it covers until the bond has been replaced or renewed. (Ord. 86-157)

CHAPTER 16 BUILDING

ARTICLE 6 CONTRACTORS

PART 6 PLUMBING CONTRACTORS; WATER CONNECTED APPLIANCE CONTRACTORS

SECTION:

16-6-601: Colorado License Required
 16-6-602: Water Connected Appliance Contractor
 16-6-603: Bond
 16-6-604: Vehicle Identification

16-6-601: COLORADO LICENSE REQUIRED: No license other than a duly issued Colorado State master plumber's license shall be required. The contractor is permitted to do all such work as is set out within Chapter 16, Article 2, Part 5 of this Code. However, venting and gas piping of appliances requires a Heating Contractor A license. (Exception: A registered plumbing contractor who possesses a Heating Mechanic I license may replace water heaters without the supervision of a Heating Contractor A.) To perform plumbing work within this jurisdiction, a Colorado State licensed master plumber shall register with the Regional Building Department. An annual fee for registration as set out in Section 16-6-706 of this Code shall be charged to cover the costs of administration of the registration and its functions. (Ord. 86-157)

16-6-602: WATER CONNECTED APPLIANCE CONTRACTOR:

- A. Application and Examination. In accordance with Section 16-6-103 and Section 16-6-104 of this Code, the Mechanical Committee shall review applications and examinations, and make appropriate recommendations to the Board of Review for the classes of contractors' licenses that follow.
- B. This license shall authorize the contractor to obtain permits and install only ice makers, lawn sprinkler systems, water softeners, and humidifiers.
- C. This license shall enable the contractor to do work only in the installation of equipment directly

C) to the source of water supply. The contractor shall not perform work which requires licensing or registration elsewhere in this Code, to include waste, drain, or vent piping, without holding the applicable license and registration to do that work.

D. A plumbing contractor holding a State master plumber's license and registered in this jurisdiction may obtain permits to install any of the above listed items without a separate license.

16-6-603: BOND: If the contractor elects to be billed for his permit fees, he shall post a bond equal to the limit of his anticipated charges, but in no case less than the face value of one thousand dollars (\$1,000.00), guaranteeing payment of fees owed to the Regional Building Department in accordance with Chapter 16, Article 3, Part 2 of this Code. Expiration of the bond shall automatically suspend the permits which it covers until the bond has been replaced or renewed. (Ord. 86-157)

16-6-604: VEHICLE IDENTIFICATION: Any person, firm, co-partnership, corporation, or combination thereof licensed as a plumbing contractor in this jurisdiction shall identify or cause to be identified all vehicles used in the performance of the business of a plumbing contractor with the exception of personal automobiles. Such identification shall be in letters at least two inches (2") high and include the company name and the contractor's Colorado Master license number. (Ord. 86-157)

*CHAPTER 16 BUILDING***ARTICLE 6 CONTRACTORS***PART 7 LICENSE AND REGISTRATION FEES***SECTION:**

- 16-6-701: Application Fees
- 16-6-702: License or Registration Fees
- 16-6-703: Partial Payment; Lost Licenses
- 16-6-704: Receipts for Payment of Fees
- 16-6-705: Unpaid Fee Constitutes Debt
- 16-6-706: License and Registration Fees Enumerated

16-6-701: APPLICATION FEES: All applications for new licenses or new registrations shall be accompanied by a twenty dollar (\$20.00) application fee. Application fees are charged to defray the expense of processing applications for new licenses and new registrations and shall neither be refundable nor shall they be applied to nor deducted from required license and registration fees. (Ord. 86-157)

16-6-702: LICENSE OR REGISTRATION FEES:
The license or registration fee for every license or registration issued under this Code shall be payable at the time of issuance of the license or registration. Said fee, except fees for concrete contractors' licenses, shall be payable to the Regional Building Department. Application for concrete contractor's licenses shall be paid to the City Clerk as provided in Section 16-6-302 of this Code. There shall be no refund or proration of license or registration fees for any reason. (Ord. 86-157)

16-6-703: PARTIAL PAYMENT; LOST LICENSES:

- A. No partial payment of any application fee or of any license or registration fee shall be accepted.
- B. Whenever a license, registration, or identification card is lost, the Building Official is hereby authorized to replace it upon payment of a two dollar (\$2.00) fee to defray costs of replacement. (Ord. 86-157)

16-6-704: RECEIPTS FOR PAYMENT OF FEES:

The Building Official shall issue a receipt to the applicant for fees paid. Such receipt shall not be construed as constituting approval of the Board of Review for the issuance of a license or registration, nor shall it entitle or authorize the applicant to conduct any business or trade contrary to the provisions of this Code. (Ord. 86-157)

16-6-705: UNPAID FEE CONSTITUTES DEBT:

The amount of any unpaid fee required by this Code shall constitute a debt due the Regional Building Department. The attorney for the Regional Building Department shall, at the direction of the Building Official, institute civil suit in the name of the Regional Building Department to recover any such unpaid fee. Such remedy shall be cumulative and in addition to all other remedies and shall neither bar nor abate a prosecution in Municipal Court for any violation of this Code, nor bar nor abate any action to suspend or revoke a license for nonpayment of the appropriate fee. (Ord. 86-157)

16-6-706: LICENSE AND REGISTRATION FEES ENUMERATED: The following are annual fees for licenses or registrations covered by this Code:

Building Contractor A (General).....	\$200.00
Building Contractor B-1 (General-Limited).....	175.00
Building Contractor B-2 (General-Limited).....	175.00
Building Contractor C (Home Builder).....	150.00
Building Contractor D	
1. One Trade Only.....	100.00
2. Wrecking Contractor A.....	125.00
3. Wrecking Contractor B.....	100.00
4. Moving Contractor.....	100.00
5. Sign Contractor A.....	125.00
6. Sign Contractor B.....	75.00

Building Contractor E.....	\$ 75.00
Building Contractor F-1	
(Solar-Unlimited).....	100.00
Building Contractor F-2	
(Solar-Limited)	75.00
Concrete Contractor.....	35.00
Electrical Contractor.....	100.00
Heating Contractor A.....	100.00
Heating Contractor B.....	100.00
Heating Contractor C.....	50.00
Heating Mechanic I.....	10.00
Heating Mechanic II.....	10.00
Plumbing Contractor.....	100.00
Water Connected Appliance	
Contractor	100.00
(Ord. 86-157)	

CHAPTER 16 BUILDING

ARTICLE 7 SWIMMING POOLS

SECTION:

- 16-7-101: Definition
- 16-7-102: Applicability of Regulations
- 16-7-103: Enforcement and Adoption of Regulations
- 16-7-104: Safety Equipment
- 16-7-105: Enclosures, Fences Required
- 16-7-106: Variances
- 16-7-107: Public Nuisance Declared

16-7-101: DEFINITION:¹ "Swimming pool" means a body of water, other than a natural swimming area, maintained exclusively for swimming, recreative bathing or wading, having a surface area of more than one hundred (100) square feet, and includes appurtenances used in connection with the swimming pool. (Ord. 84-282)

16-7-102: APPLICABILITY OF REGULATIONS:
The requirements of this Article shall apply to all swimming pools within the City, whether publicly or private owned. (Ord. 84-282)

16-7-103: ENFORCEMENT AND ADOPTION OF REGULATIONS: The Regional Building Department shall have the duty to enforce this Article, and the Building Official or his authorized representative, upon a proper showing of credentials, shall have the right to enter any building or premises in which or upon which a swimming pool is located in order to inspect said swimming pool with regard to these provisions.

In order to carry out the provisions of this Article, the Building Official is authorized to issue to any party responsible for the operation of a swimming pool not in compliance with this Article, an order to abate the nuisance involved. Such order shall be served in writing upon the party responsible for the operation of the swimming pool, and shall require him to abate the nuisance within a reasonable time as specified in the notice. Should the Building Official determine that the operation of the swimming pool is an imminent threat to the welfare and safety of the citizens of the

City, he may order the swimming pool to be drained immediately. Should the person responsible for the operation of the swimming pool not comply with such an order, the Building Official shall cause the nuisance to be abated, and the expense of such abatement shall be collected from the person who created, continued, or suffered such a nuisance to exist. Any party responsible for the operation of a swimming pool not in compliance with this Article, or who fails to obey an order of the Building Official to abate the nuisance involved, or who refuses to permit the Building Official to abate the nuisance involved, or who refuses to permit the Building Official or his authorized representative to inspect the swimming pool, shall be guilty of a misdemeanor.

The Building Official may adopt any rules and regulations necessary for the proper administration and enforcement of this Article. (Ord. 84-282)

16-7-104: SAFETY EQUIPMENT: Except as hereinafter stated, all swimming pools having a depth at any point of more than three feet (3'), whether indoor or outdoor, shall be equipped with not less than one lightweight reaching pole of not less than twelve feet (12') in length, and not less than one life ring fifteen inches (15') in diameter with a line of three-sixteenths inch ($\frac{3}{16}$ ") diameter rope attached of length equal to or exceeding the width of the pool. The reaching pole and the life ring shall be kept in a conspicuous place readily available to persons in the pool area. Every such swimming pool shall also have posted in prominent places the telephone numbers of the Colorado Springs Fire Department and the Colorado Springs Police Department for use in emergencies. (Ord. 84-282)

16-7-105: ENCLOSURES, FENCES REQUIRED:
Except as hereinafter stated, every outdoor swimming pool having a depth at any point of more than one foot (1'), shall be completely enclosed by a fence or a wall not less than five feet (5') in height. Such fences or walls shall contain no openings, holes or gaps, except those equipped with gates or doors, larger than five inches (5") in a horizontal direction. Any openings, holes or gaps larger than five inches

¹ For definitions of general application, see Section 1-1-203 of this Code.

(5'), shall be equipped with doors or gates not less than five feet (5') in height. Such gates and doors shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping, such doors or gates securely closed at all times when not in actual use, such latching device to be attached to the upper part of said gate or door not less than forty eight inches (48') above the bottom of said gate or door.

The enclosure around single family residential pools may be around the perimeter of the pool or the whole perimeter of the property or any part thereof. Enclosure around any other pool shall be around the pool area which shall include the pool, the pool deck and any appurtenant sunbathing area. The enclosure around one or more of the sides of the pool may include a building or other permanent structure; provided, however, that any access to the pool through such building or structure shall be equipped as hereinabove required.

The enclosure height requirements of this Section shall not apply to any outdoor swimming pool enclosed by a wall or fence not less than four feet (4') in height existing on the date of final approval of this Article.¹ The self-closing and self-latching devices required on doors by this Section shall not apply to any door which is part of the enclosure around the pool, which door is also the entrance to a single dwelling unit or recreational building of an apartment complex or motel. (Ord. 84-282)

16-7-106: VARIANCES: The owner of any swimming pool may request a variance from the requirements of Section 16-7-105 by submitting to the Building Official a written application for such variance, setting forth a description of such pool and an alternate safeguard system by which entry into said swimming pool may be restricted or prevented. The Building Official may approve such alternate safeguard system upon finding that both of the following conditions exist:

- A. That physical conditions of the premises would make the erection of a fence or a wall impractical; and
- B. The proposed alternate safeguard system would accomplish the intent of the requirements of Section 16-7-105. (Ord. 84-282)

16-7-107: PUBLIC NUISANCE DECLARED: Any swimming pool not in compliance with this Article shall be and is hereby declared to be a public nuisance. (Ord. 84-282)

1. The effective date of the ordinance from which this provision derives was May 28, 1974.

CHAPTER 17
HOUSING AND REDEVELOPMENT

ARTICLE 1	HOUSING CODE
Part 1	General Provisions
Part 2	Inspections and Enforcement
Part 3	Minimum Standards
Part 4	Responsibilities of Owners and Occupants
Part 5	Rooming House Standards
Part 6	Unfit Dwellings
ARTICLE 2	RELOCATION POLICY AND PROGRAM
Part 1	Displacement Due to Code Violations
Part 2	Displacement Due to City Program or Project

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 1 HOUSING CODE

PART 1 GENERAL PROVISIONS

SECTION:

- 17-1-101: Title
- 17-1-102: Declaration of Policy
- 17-1-103: Legislative Findings
- 17-1-104: Enforcing Authority
- 17-1-105: Application, Interpretation of Provisions
- 17-1-106: Definitions
- 17-1-107: Violations

numerous dwellings which are substandard in one or more important features of structure, equipment, sanitation, maintenance or occupancy. Such conditions adversely affect the physical and mental health, the control of communicable diseases, the safety and general welfare of the people and therefore require the establishment and enforcement of minimum housing standards. (Ord. 3875; 1968 Code § 16-2)

17-1-101: **TITLE:** This Article shall be known and may be cited as the Housing Code. (Ord. 3875; 1968 Code § 16-3)

17-1-104: **ENFORCING AUTHORITY:** The Director of Community Development or his designated representative is hereby designated as the official enforcement officer of the Housing Code. In exercising all power and authority delegated to him by this Article, the officer shall apply sound principles of public health, consistent with national standards, and said national standards shall also be applied in his making rules, regulations, determinations and orders authorized by this Article. (Ord. 3875; Ord. 82-224; 1968 Code §§ 16-4, 16-32)

17-1-102: **DECLARATION OF POLICY:** The Council declares that the purpose of this Article is to protect, preserve and promote the physical and mental health of the people, to discover, investigate and control communicable diseases, to regulate privately and publicly owned dwellings for the purpose of sanitation and public health, and to protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed and which:

17-1-105: APPLICATION, INTERPRETATION OF PROVISIONS:

- A. Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
- B. Determines the responsibilities of owners, operators and occupants of dwellings; and
- C. Provides for the administration and enforcement thereof. (Ord. 3875; 1968 Code § 16-1)

- A. The provisions of this Article shall apply to all buildings or portions thereof, used, designed or intended to be used for human habitation.
- B. In any case where a provision of this Article is found to be in conflict with a provision of any other provision of this Code, or any secondary code adopted thereby, that provision which establishes the higher or more restrictive standard for the promotion and protection of the health and safety of the people shall prevail. (Ord. 3875; 1968 Code § 16-32)

17-1-103: **LEGISLATIVE FINDINGS:** The City Council finds that there exists in the City

17-1-106: **DEFINITIONS:**¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

¹ For definitions of general application, see Section 1-1-203 of this Code.

APPROVED: Constructed, installed and maintained in accordance with this Article or other pertinent ordinances, rules and regulations of the City.

BASEMENT: That portion of a dwelling so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

CELLAR: That portion of a dwelling so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling.

DWELLING: Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

ENFORCEMENT OFFICER: The designated representative of the Director of Community Development who is charged with the enforcement of the provisions of this Article.

EXTERMINATION: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the enforcement officer.

FAMILY: Any number of persons living together on the premises in a single dwelling unit, but not including a group of more than five (5) individuals (excluding servants) not related by blood, marriage or adoption.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

HEALTH DEPARTMENT: The Department of Health of El Paso County or its authorized employees.

INFESTATION: The presence, within or around a dwelling of any insects, rodents or other pests.

MULTIPLE DWELLING: Any dwelling containing two (2) or more dwelling units.

OCCUPANT: Any person, over two (2) years of age, living, sleeping, cooking, eating in or having actual possession of a dwelling, dwelling unit or rooming unit.

OPERATOR: Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

ORDINARY MINIMUM WINTER CONDITIONS: The temperature of plus ten degrees (10°) Fahrenheit.

ORDINARY MAXIMUM SUMMER CONDITIONS: A temperature of ten degrees (10°) Fahrenheit below the highest recorded temperature in the locality for the prior ten (10) year period.

OWNER: Any person who, alone or jointly, or severally with others:

- A. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- B. Shall have charge, care or control of any dwelling or dwelling unit as owner or agent of the owner, or as executor, administrator, conservator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Article, and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PLUMBING: Includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines. This definition shall be applicable only to this

Article and shall not be construed to apply elsewhere in this Code.

ROOMING UNIT: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

ROOMING HOUSE: Any dwelling or part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother if the owner or operator, and shall include hotels, motels, lodging-houses, rooming and boarding houses, nursing homes, convalescent homes and all such establishments by whatever name designated.

RUBBISH: Combustible and noncombustible waste materials excluding garbage. Includes the residue from burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

SANITARY CONDITION: That an area is free of rubbish, garbage, debris, vermin and rodents, and that all interior and exterior surfaces and premises are clean and capable of being cleaned in order to promote and establish conditions for the betterment of community health.

SUPPLIED: Paid for, furnished, provided by or under the control of, the owner or operator.

TEMPORARY HOUSING: Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) consecutive days.

Whenever the words "dwelling" or "dwelling unit", "rooming house" or "rooming unit", or "premises" are used in this Article, they shall be construed as though they were followed by the words "or any part thereof". (Ord. 3875; Ord. 82-224; 1968 Code § 16-5)

construct, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building or structure in the City, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Article. (Ord. 3875; 1968 Code § 16-33)

17-1-107: VIOLATIONS: It shall be unlawful for any person to do any act, erect,

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 1 HOUSING CODE

PART 2 INSPECTIONS AND ENFORCEMENT

SECTION:

17-1-201: Adoption of Rules and Regulations
 17-1-202: Inspection of Dwellings and Premises
 17-1-203: Housing Variance Officer
 17-1-204: Notices and Orders
 17-1-205: Hearing on Notice and Orders
 17-1-206: Emergency Conditions, Procedures
 17-1-207: Variance on Appeal
 17-1-208: Enforcement of Orders

17-1-201: **ADOPTION OF RULES AND REGULATIONS:**

A. The Director of Community Development is hereby authorized to adopt such written rules and regulations as may be necessary for the proper enforcement of the provisions of this Article, provided that such rules and regulations shall not be in conflict with the provisions of this Article and shall include only such rules and regulations as will implement the provisions hereof, and not establish new standards of housing. The procedure for the adoption or amendment of such rules and regulations shall be as follows:

1. The Director of Community Development shall hold a public hearing on all proposed rules, regulations and amendments thereto, after at least five (5) days' public notice by publication in the official newspaper.¹ The notice may set forth the rules and/or amendments, or may consist of a brief statement thereof, and shall include the time, date and place of the public hearing.

2. The Director of Community Development shall take under advisement any evidence adduced at such hearing, in establishing said rules and regulations, and all rules and regulations and amendments thereto shall be subject to the approval of the City Manager and the City Attorney.

3. After such approval, the rules and regulations shall be published in one of the following ways:

A,3) a. By publication in full one time in the official publication, or

b. By publication of a notice in the official publication that rules and regulations have been adopted and are on file with the office of the City Clerk.

4. All rules and regulations shall become effective upon such publication and filing.

5. Any rules or regulations so adopted may be repealed by the Director of Community Development with the approval of the City Manager and the City Attorney, by publication through one of the two (2) methods herein provided, and by filing of the repealer with the City Clerk.

B. Whenever communicable diseases or the sanitary condition of the City shall be of such character as to warrant emergency rules and regulations, it shall be the duty of the Director of Community Development to make such rules and regulations as he may deem the public safety and health demand.² Such rules and regulations which are declared to be emergency rules and regulations, though not herein or otherwise authorized, shall be adopted formally by the procedure set forth in this Section as soon as may be after promulgation of the same. (Ord. 3875; Ord. 82-224; 1968 Code § 16-8)

17-1-202: **INSPECTION OF DWELLINGS AND PREMISES:**

A. In order that the enforcement officer may perform the duty of safeguarding the health and safety of the occupants of dwellings and of the general public, he is hereby authorized and directed to make inspections to determine the conditions of dwellings, dwelling units, rooming units, and premises located within the City. For the purpose of making such inspections, the enforcement officer, upon showing proper identification or obtaining a

1. See Section 1-1-601 of this Code.

2. See also, Section 17-1-206 of this Chapter.

- A) warrant for inspection as hereinafter set forth, is hereby authorized to enter, examine and survey at all reasonable times, all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit and rooming unit, or the person in charge thereof, upon being shown proper identification or upon being shown a warrant for inspection, shall give the enforcement officer access to such dwelling, dwelling unit or rooming unit and premises, at all reasonable times for the purpose of such inspection, examination and survey; provided, however, that no person shall be deemed guilty of a violation of this Section for failure to admit the enforcement officer unless and until the enforcement officer shall first obtain and display a warrant for inspection issued by any court of competent jurisdiction. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Article or with any lawful regulation adopted or any lawful order issued pursuant to the provisions of this Article.
- B. Upon complaint made by the enforcement officer that any person has refused him or his duly authorized representatives entrance into or upon the dwelling or other premises owned or occupied by such person for the purpose of inspecting the same to determine the condition thereof, any judge of the Municipal Court shall have power to issue an inspection warrant commanding such dwelling or premises to be inspected in the daytime upon any day of the week except Sunday. (Ord. 3875; 1968 Code § 16-6)

17-1-203: HOUSING VARIANCE OFFICER:

- A. The Housing Variance Officer is hereby appointed to provide for reasonable interpretations of the provisions of this Article and to pass upon appeals and requests for variances, as applicable. The Housing Variance Officer shall be an advisory position only and

- A) shall make recommendations to the City Council. The Housing Variance Officer shall be the Director of Community Development or his designated representative.
- B. Powers and Duties. The Officer shall have the following powers and duties:
1. To establish his own rules for the conduct of his meetings and to keep an accurate record of his actions;
 2. To advise the City Council in the determination of policy relating to housing in the City, and in the enforcement and execution of such policy; and
 3. To make reports, compile statistics and perform such other duties as the City Council may direct.
- C. Confer with City Manager. The Officer may consult the City Manager at any time upon matters relating to housing or any other matters into which the Officer shall be empowered to inquire. The City Manager shall be privileged to be heard at any meeting of the Officer relating to housing in the City for the enforcement and execution of the provisions of this Article. (Ord. 3875; Ord. 82-224; 1968 Code § 16-7)

17-1-204: NOTICES AND ORDERS: Whenever the enforcement officer determines there are reasonable grounds to believe there has been a violation of any provision of this Article or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:

- A. Be in writing;
- B. Include a statement of the reason why it is being issued;
- C. Allow a reasonable time for the performance of any act it requires;
- D. Be served upon the owner, occupant, agent or person in possession, charge or control of the

- D) premises, as the case may require, and if such person cannot be found for personal service, the service shall be deemed to be complete when a copy is sent, by certified mail, to the last known address of the last known owner of the property, such address and such owner being those appearing on the real property assessment rolls for general (ad valorem) taxes of El Paso County. (Ord. 3875; 1968 Code § 16-7)

17-1-205: HEARING ON NOTICE AND ORDERS:

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Article, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Housing Variance Officer, provided such person shall file with the Officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefor, within twenty (20) days after the day the notice was served. Upon receipt of such petition, the Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof at least forty eight (48) hours in advance.
- B. A request for hearing shall stay all proceedings in connection with the notice appealed from, unless and until the enforcement officer shall certify to the Housing Variance Officer that a stay would cause hazard to the health or safety of the occupant and/or occupants. In such case, proceedings pursuant to the notice of the enforcement officer shall not be stayed except by order of the Officer or by a restraining order issued by a court of competent jurisdiction.
- C. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than twenty (20) days after the day on which the petition was filed; provided that upon application of the petitioner the Officer may postpone the date of the hearing for a reasonable time beyond such twenty (20) day period, if in its judgment the petitioner had submitted a good and sufficient reason for postponement.

- D. After a hearing the Officer shall sustain, modify or withdraw the notice, depending upon its finding as to whether the provisions of this Article and of the rules and regulations adopted pursuant thereto have been complied with. If the Officer sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to Section 17-1-204 of this Part 2 shall automatically become an order if a written petition for a hearing is not filed with the Officer within twenty (20) days after such notice is served.

- E. The proceedings at such a hearing, including the findings and decision of the Officer shall be summarized, reduced to writing, and entered as a matter of public record in the office of the enforcement officer. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person not fully satisfied by the decision of the Officer provided for in subsection D of this Section may petition the District Court for review thereof under Rule 106(d), Colorado Rules of Civil Procedure. Such petition shall be filed within thirty (30) days after the Officer's decision. (Ord. 3875; Ord. 84-159; 1968 Code § 16-7)

17-1-206: EMERGENCY CONDITIONS, PROCEDURES: Whenever the enforcement officer finds an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency requiring such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Article such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon its finding as to whether the provisions of this Article and of the rules and regulations adopted pursuant thereto have been complied with,¹ the Officer shall continue, modify or revoke such order. (Ord. 3875; 1968 Code § 16-7)

17-1-207: VARIANCE ON APPEAL:

- A. Upon written application in specific cases or pursuant to an appeal, the Officer may authorize such variance from the terms of this Article or the rules and regulations adopted

1. See also, Section 17-1-201B of this Chapter.

A) pursuant thereto, subject to terms and conditions fixed herein, as will not adversely affect the public health where, owing to exceptional and extraordinary circumstances, literal enforcement of applicable provisions will result in unnecessary hardship. The burden of proof is upon the applicant to show by clear and convincing evidence that:

1. The granting of the requested variance will not adversely affect the public health;

2. There are exceptional and extraordinary circumstances to justify the granting of a variance;

3. Literal enforcement of the applicable provisions will result in specific unnecessary hardship;

4. The variance shall not substantially or permanently injure the appropriate use of the other portions of the dwelling involved, or other property;

5. The variance shall be in harmony with the spirit and purposes of this Article; and

6. The variance shall protect, preserve and promote the physical and mental health of the people of the City.

B. The decision of the Officer may be appealed to the City Council in accordance with the requirements of Section 14-18-101 et. seq. of the Code of the City of Colorado Springs 1980, as amended. (Ord. 3875; Ord. 85-272; 1968 Code § 16-7)

17-1-208: **ENFORCEMENT OF ORDERS:** The enforcement officer shall enforce and execute all decisions and orders of the Housing Variance Officer. (Ord. 3875; 1968 Code § 16-7)

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 1 HOUSING CODE

PART 3 MINIMUM STANDARDS

SECTION:

- 17-1-301: Basic Equipment and Facilities
- 17-1-302: Light, Ventilation and Heating
- 17-1-303: Space, Use and Location
- 17-1-304: Sanitary Conditions Maintained
- 17-1-305: Maintenance
- 17-1-306: Interruption of Service

17-1-301: BASIC EQUIPMENT AND FACILITIES: It shall be unlawful for any person to occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

- A. Every dwelling or dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the enforcement officer.
- B. Every dwelling or dwelling unit shall contain a room or adjacent rooms that afford privacy to a person within said rooms which are equipped with flushtype water closet and a lavatory basin in good working condition and properly connected to a water and sewer system approved by the enforcement officer, and are so arranged as not to require the occupant of said dwelling or dwelling units to go outdoors to reach said facilities.
- C. Every dwelling or dwelling unit shall contain within a room which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the enforcement officer. These facilities shall be so arranged as not to require the occupant of said dwelling unit to go outdoors.
- D. Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of subsections A, B and C of this Section shall be properly connected with both hot and cold water lines.
- E. Every dwelling shall be supplied with adequate rubbish storage facilities of a type and location approved by the enforcement officer.
- F. Every dwelling shall have adequate garbage disposal facilities or garbage storage containers of a type and location approved by the enforcement officer.
- G. Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required under the provisions of subsection D of this Section, and are capable of heating water to a temperature of not less than one hundred twenty degrees (120°) Fahrenheit. Such supplied water-heating facilities shall be capable of meeting the requirements of this subsection when the dwelling or dwelling unit heating facilities required under the provisions of Section 17-1-302E of this Article are not in operation.
- H. Every dwelling unit shall have safe, unobstructed means of egress leading to a safe and open space at ground level, as required by this Article or other pertinent ordinances, rules or regulations of the City, or any secondary codes adopted thereby.
- I. Cabinets and/or shelves for the storage of eating, drinking, cooking equipment and utensils, and of food that does not under ordinary maximum summer conditions require refrigeration for safe keeping, and a counter or table for food preparation. Said cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction, furnished with surfaces that are easily cleanable and that will not impart a toxic or deleterious effect to food.

- J. A stove or similar device, for cooking food, and a refrigerator, or similar device, for safe storage of food at temperatures less than fifty degrees (50°) Fahrenheit, but more than thirty two degrees (32°) Fahrenheit, under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided, however, that such stove, refrigerator and/or similar device need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, and sufficient space and adequate connections for the safe and efficient installation and operation of said stove, refrigerator and/or similar devices are provided. (Ord. 3875; 1968 Code § 16-9)

17-1-302: LIGHT, VENTILATION AND HEATING:

It shall be unlawful for any person to occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. Every habitable room in a dwelling or dwelling unit shall either have at least one window or skylight facing directly to the outside, or shall receive from adjoining rooms an equivalent amount of light, which shall provide a minimum of five (5) foot candles of daylight illumination, measurable at the epicenter of the room, thirty inches (30") above floor level, with a standard light meter facing the light source, with the normal amount of brightness.
- B. Every habitable room shall have at least one window or skylight which can be opened, or such other device as will adequately ventilate the room.
- C. Every bathroom and water closet compartment shall be in compliance with the light and ventilation requirements for habitable rooms contained in subsections A and B of this Section, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by the enforcement officer and capable of four (4) air changes per hour.
- D. Where there is electric service available from power lines which are not more than three hundred feet (300') away from a dwelling, every habitable room of such dwelling shall contain at least two (2) separate wall-type electric receptacle outlets, or one such receptacle outlet and one supplied ceiling-type electric light fixture; and every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner in accordance with the National Electrical Code.
- E. Every dwelling shall have heating facilities which are properly installed, are maintained in good and safe working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least seventy degrees (70°) Fahrenheit, at a distance three feet (3') above floor level at the approximate center of the room, under ordinary minimum winter conditions.
- F. Every public hall and stairway in every multiple dwelling containing five (5) or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four (4) dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.
- G. Each window with openings to outdoor space which is used or intended to be used for ventilation shall be supplied with a screen.

- H. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other devices as will effectively prevent their entrance. (Ord. 3875; Ord. 82-136; Ord. 86-214; 1968 Code § 16-10)

17-1-303: SPACE, USE AND LOCATION: It shall be unlawful for any person to occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. Every dwelling unit shall contain at least:

125 square feet--	1 person
200 square feet--	2 persons
275 square feet--	3 persons
350 square feet--	4 persons
425 square feet--	5 persons
500 square feet--	6 persons
560 square feet--	7 persons
620 square feet--	8 persons
680 square feet--	9 persons
740 square feet--	10 persons

and a minimum of forty (40) square feet for each additional person thereafter. The required floor space shall be calculated on the basis of total habitable room area. In no case shall more than eight hundred fifty (850) square feet be required for one family.

- B. In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space, with a minimum of seven feet (7') in all side dimensions and every room occupied for sleeping purposes by more than one occupant shall contain at least forty (40) square feet of floor space for each occupant thereof.
- C. At least one-half (½) of the floor area of every habitable room shall have a ceiling height of at least seven feet (7') and the floor area of that part of any room where the ceiling height is less than five feet (5') shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the

- C) maximum permissible occupancy thereof.

- D. No basement or cellar space shall be let as a habitable room and no basement shall be used or occupied as a dwelling unit or rooming unit unless:

1. The floor and walls are impervious to leakage of underground and surface runoff water and are free from dampness,

2. The total amount of light required in each room is equal to at least the minimum amount of light required in subsection A of Section 17-1-302.

3. The facilities for ventilation in each room are equal to at least the minimum required under subsection B of Section 17-1-302 hereof. (Ord. 3875; 1968 Code § 16-14)

17-1-304: SANITARY CONDITIONS MAINTAINED: It shall be unlawful for any person to occupy or let to any other occupant any vacant dwelling unless it is clean, sanitary and fit for human habitation according to the standards set forth in Section 17-1-601 hereof. (Ord. 3875; 1968 Code § 16-13)

17-1-305: MAINTENANCE: It shall be unlawful for any person to occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight, watertight and rodent-resistant, and shall be capable of affording privacy; and shall be kept in sound condition and good repair.
- B. Every window, exterior door and basement door or cellar hatchway shall be reasonably weather-tight, watertight and rodent-resistant, and shall be kept in sound working condition and good repair.
- C. Every inside and outside stair, every porch, private sidewalk and every appurtenance thereto shall be so constructed as to be safe to

- C) use and capable of supporting the load normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- D. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.
- E. Every water closet, bathroom and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and to permit such floor to be easily kept in a clean, safe and sanitary condition.
- F. Every supplied facility, piece of equipment or utility shall be so constructed or installed that it will function safely and effectively, and shall be maintained in sound satisfactory working condition and good repair.
- G. Every exterior wall surface shall be constructed and maintained by painting or use of other approved protective devices, so as to be weatherproof. (Ord. 3875; 1968 Code § 16-11)

17-1-306: INTERRUPTION OF SERVICE: No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this Article to be removed from, shut off or discontinued in any occupied dwelling or dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the enforcement officer. Provided, however, this Section shall apply only when the dwelling is occupied. (Ord. 3875; 1968 Code § 16-12)

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 1 HOUSING CODE

PART 4 RESPONSIBILITIES OF OWNERS AND OCCUPANTS

SECTION:

- 17-1-401: Maintenance Requirements
- 17-1-402: Rubbish and Garbage Disposal
- 17-1-403: Screens, Doors and Windows
- 17-1-404: Pest Extermination

- B) facilities or garbage storage containers. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a multiple dwelling. In all other cases, it shall be the responsibility of the occupant to furnish such facilities or containers. (Ord. 3875; 1968 Code §§ 16-18, 16-19)

17-1-401: MAINTENANCE REQUIREMENTS:

- A. Common Areas. Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.
- B. Private Areas. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition, that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- C. Plumbing. Every occupant of a dwelling or dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. (Ord. 3875; 1968 Code §§ 16-15, 16-16, 16-17)

17-1-402: RUBBISH AND GARBAGE DISPOSAL:

- A. Rubbish: Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the required rubbish containers.
- B. Garbage. Every occupant of a dwelling or dwelling unit shall dispose of his garbage and any organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the required garbage disposal

17-1-403: SCREENS, DOORS AND WINDOWS:

Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens or other doors and windows whenever the same are required under the provisions of this Article or of any rule or regulation adopted pursuant thereto, except where the owner has agreed to supply such service. (Ord. 3875; 1968 Code § 16-20)

17-1-404: PEST EXTERMINATION: Every occupant of a dwelling shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested.

Notwithstanding the foregoing provisions of this Section, whenever infestation is caused by failure of the owner or occupant to maintain a dwelling in a rat resistant or reasonably insect-resistant condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner. (Ord. 3875; 1968 Code § 16-21)

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 1 HOUSING CODE

PART 5 ROOMING HOUSE STANDARDS

SECTION:

- 17-1-501: Compliance Required
- 17-1-502: Water Closets and Bath Facilities
- 17-1-503: Change of Linen
- 17-1-504: Floor Space Requirements
- 17-1-505: Egress from Buildings
- 17-1-506: Maintenance

17-1-501: COMPLIANCE REQUIRED: It shall be unlawful for any person to operate a rooming house, or to occupy or let to another for occupancy any rooming unit in any rooming house or hotel, except in compliance with all applicable provisions of this Article. (Ord. 3875; 1968 Code § 16-22)

17-1-502: WATER CLOSETS AND BATH FACILITIES: At least one flush water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each ten (10) persons or fraction thereof residing within a rooming house, including members of the operator's family who share the use of said facilities; provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half ($\frac{1}{2}$) the required number of water closets. All such facilities shall be located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water under pressure at all times. No such facilities shall be located in a basement or cellar unless the basement meets all conditions required by this Article and other City ordinances, rules and regulations or any secondary code adopted thereby. (Ord. 3875; 1968 Code § 16-23)

17-1-503: CHANGE OF LINEN: The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to

any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner. (Ord. 3875; 1968 Code § 16-24)

17-1-504: FLOOR SPACE REQUIREMENTS:

Every room occupied for sleeping purposes by one person shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least forty (40) square feet floor space for each occupant thereof. (Ord. 3875; 1968 Code § 16-25)

17-1-505: EGRESS FROM BUILDINGS: Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required and defined by this Article and other City ordinances, rules and regulations or any secondary code adopted thereby. (Ord. 3875; 1968 Code § 16-26)

17-1-506: MAINTENANCE: The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for maintenance of a sanitary condition in every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator. (Ord. 3875; 1968 Code § 16-27)

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 1 HOUSING CODE

PART 6 UNFIT DWELLINGS

SECTION:

- 17-1-601: Condemnation Procedures
- 17-1-602: Abatement, Vacation of Premises
- 17-1-603: Occupation of Condemned Buildings
- 17-1-604: Removal of Placard Prohibited

17-1-601: **CONDEMNATION PROCEDURES:**¹

Any dwelling or dwelling unit which the enforcement officer finds to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the enforcement officer.

- A. One which is so damaged, decayed, dilapidated, insanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- B. One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.
- C. One which because of its general condition or location is insanitary or otherwise dangerous to the health or safety of the occupants or of the public. (Ord. 3875; 1968 Code § 16-28)

17-1-602: **ABATEMENT, VACATION OF PREMISES:**

- A. Any dwelling or dwelling unit which shall be found to be in a condition which violates any provision or provisions of this Article to such an extent as to endanger the life, limb, health, safety or welfare of the public or any occupant, shall be deemed and declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal. (Ord. 3875; 1968 Code § 16-28)

- B. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the enforcement officer, shall be vacated within the time specified by the notice. (Ord. 3875; 1968 Code § 16-29)

17-1-603: **OCCUPATION OF CONDEMNED BUILDINGS:**

It shall be unlawful for any person to use or occupy for human habitation any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation until written approval is secured from, and such placard is removed by, the enforcement officer. The enforcement officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. (Ord. 3875; 1968 Code § 16-30)

17-1-604: **REMOVAL OF PLACARD PROHIBITED:**

It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in Section 17-1-603 above. (Ord. 3875; 1968 Code § 16-31)

1. See Dangerous Buildings Code, Chapter 16, Article 5 of this Code.

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 2 RELOCATION POLICY AND PROGRAM

PART 1 DISPLACEMENT DUE TO CODE VIOLATIONS

SECTION:

17-2-101: Definitions
 17-2-102: Administrative Guidelines
 17-2-103: Expenses For Displaced Persons
 17-2-104: Emergency Rehabilitation Assistance
 17-2-105: Appeals
 17-2-106: Assessment of Relocation Expenses

17-2-101: DEFINITIONS: The following terms, as used in this Part, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

DISPLACED PERSON: Any occupant who, through no fault of his own, must move himself and his personal property from real property as a result of that property not being in compliance with applicable building, health and housing codes. (Ord. 85-240; Ord. 86-214)

17-2-102: ADMINISTRATIVE GUIDELINES: The Director of Community Development or his designated representative shall administer the policy set forth in this Article and shall from time to time promulgate guidelines, rules and regulations for the operation of this policy. Any such guidelines, rules or regulations promulgated by the Director of Community Development or his designated representative shall be subject to City Council approval. (Ord. 85-240)

17-2-103: EXPENSES FOR DISPLACED PERSONS:

A. Moving and Related Expenses for Displaced Persons. When displacing occupants from real property, in compliance with applicable building, housing and health codes, the City shall make fair and reasonable relocation payments to such occupants for:

1. A fixed settlement determined according to a schedule pre-established by the City to compensate the displaced person for physical

A1) moving expenses; and

2. Actual reasonable expenses incurred in renting a replacement dwelling; and

3. Actual reasonable costs incurred in moving leased equipment. (Ord. 85-240; Ord. 86-214)

17-2-104: EMERGENCY REHABILITATION

ASSISTANCE: The City may provide financial assistance for rehabilitation of properties in order to assure that imminently hazardous housing conditions are eliminated and to assure that the health, safety and welfare of the occupants are protected. Financial assistance as provided in this Section shall be administered in accordance with such guidelines as shall be established by the Director of Community Development or his designated representative. (Ord. 85-240)

17-2-105: APPEALS:

A. Any person aggrieved by the final administrative determination concerning relocation payments or benefits under this Part 1 may have such determination reviewed by a Hearing Officer, who shall be appointed by the Director of Community Development with the consent of City Council, provided, that a written notice of appeal is filed with the Director of Community Development within ten (10) days after the final administrative decision, and that the notice of appeal briefly specifies the grounds of appeal. The Hearing Officer shall have the power to affirm or modify the action of the administration, or to refer any matter so appealed back to the administration for further consideration.

B. The decision of the Hearing Officer may be appealed to the Colorado Springs City Council in accordance with the requirements of Section 14-18-114 of the Code of the City of Colorado Springs 1980, as amended. (Ord. 85-240; Ord. 86-214)

17-2-106: ASSESSMENT OF RELOCATION EXPENSES:

- A. Whenever persons are displaced from real property pursuant to this Part 1 as a result of that property not being in compliance with applicable building, housing, and health codes due to the owner's failure to maintain said property, and the City is required to make relocation, moving and related expense payments to such person, then the actual amount of those relocation payments incurred by the City shall become the responsibility of the owner of said real property. After determination of the actual relocation expenses incurred by the City in any given case, the Director of Community Development or his designee shall bill the property owner of the real property so affected by the relocation for the actual amount of the City's costs so incurred in the relocation of all persons displaced.
- B. In the event that the owner of the property, which is the subject matter of the relocation proceedings as set forth above, shall fail within thirty (30) days after billing to reimburse the City for its actual costs incurred in the relocation, a lien may be assessed against the property for such reimbursement of relocation expenses in accordance with Chapter 7, Article 1 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 85-240)

- C) usable business space, and must conform to the definition of comparable space. (Ord. 74-8; 1968 Code § 10-167)

17-2-106: ASSURANCE OF ADEQUATE REPLACEMENT SITES: When initiating any activity that will result in displacement of private parties, either from their homes or their place of business, the City shall document that sufficient relocation resources exist and that the proposed activity will be staged in such manner that displaced persons will have maximum opportunities to secure adequate replacement sites. (Ord. 74-8; 1968 Code § 10-170)

17-2-107: DUPLICATE PAYMENTS PROHIBITED: No payment or assistance provided for in this Article shall be required if the displaced person receives a payment required by the laws of eminent domain which is determined by the City Council to have substantially the same purpose and effect as such payment under this policy. (Ord. 74-8; 1968 Code § 10-171)

17-2-108: APPEALS: Any person or business concern aggrieved by the final administrative determination concerning eligibility for relocation payments authorized by this Article, may have such determination reviewed by the City Council by filing with the City Clerk within ten (10) days after the final administrative decision written notice stating and specifying briefly the grounds of appeal. The City Council shall have the power to affirm or modify the action of the administration, or to refer any matter so appealed back to the administration for further consideration. (Ord. 74-8; 1968 Code § 10-172)

17-2-109: RELOCATION EXPENSES:

- A. Whenever persons are displaced from real property under Section 17-2-104 as a result of that property not being in compliance with applicable building, fire and health codes due to the owner's failure to maintain said property, and the City is required to make fair and reasonable relocation payments to such persons, then the actual amount of those relocation expenses incurred by the City shall become the responsi-

- A) bility of the owner of said real property. After determination of the actual relocation expenses incurred by the City in any given case, the City Manager or his designate shall bill the property owner of the real property so effected by the relocation for the actual amount of the City's costs so incurred in the relocation of all persons displaced.
- B. In the event that the owner of the property, which is the subject matter of relocation proceedings as set forth above, shall fail within thirty (30) days after billing to reimburse the City for its actual costs incurred in the relocation, a lien may be assessed the property for such reimbursement of relocation expenses in accordance with Chapter 7, Article 1 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 84-125)

CHAPTER 17 HOUSING AND REDEVELOPMENT

ARTICLE 2 RELOCATION POLICY AND PROGRAM

PART 2 DISPLACEMENT DUE TO CITY PROGRAM OR PROJECT

SECTION:

- 17-2-201: Definitions
- 17-2-202: Administrative Guidelines
- 17-2-203: Relocation Assistance Advisory Programs
- 17-2-204: Expenses for Displaced Persons and
Displaced Businesses
- 17-2-205: Replacement Housing Payments
- 17-2-206: Assistance to Persons or Businesses in
Obtaining an Adequate Replacement Site
- 17-2-207: Duplicate Payments Prohibited
- 17-2-208: Appeals

17-2-201: **DEFINITIONS:** The following terms, as used in this Part, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

BUSINESS: Any activity, excepting a farm operation, conducted primarily for:

- A. The purchase, sale, lease or rental of personal or real property and for the manufacture, processing or marketing of produce, commodities or any other personal property;
- B. The sale of services to the public; or
- C. By a nonprofit organization.

COMPARABLE SPACE: Space which is comparable to the acquired space with respect to:

- A. Square footage;
- B. In an area not generally less desirable than the acquired space with respect to public utilities, public and commercial facilities and reasonable accessibility; and
- C. To the extent practicable and where consistent with the above, functionally equivalent and substantially the same as the space acquired by the City.

DISPLACED BUSINESS: Any entity fitting the definition stated elsewhere as "business", "nonprofit organization" or "farm operation" that was located at an affected property for not less than ninety (90) days prior to the initiation of the public activity.

DISPLACED FARM OPERATION: Land used primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use in sufficient quantity to contribute materially to the operator's support, and that was located at an affected property for not less than ninety (90) days prior to the initiation of the public activity.

DISPLACED PERSON: Any occupant who must move himself, and his personal property from real property as a direct result of the acquisition of real property by the City.

INITIATION OF PUBLIC ACTIVITY: Receipt of written intent to acquire property or formal offer to purchase, whichever occurs first.

LONG-TERM OWNER: A person who owns, by any of several legal definitions, or is purchasing the property in question, and can be determined to be residing in it as his legal residence or utilizing it as his bona fide place of business for a period of not less than one hundred eighty (180) days prior to initiation of the public activity.

NONPROFIT ORGANIZATION: A corporation, partnership or other association no part of the income or profit of which is distributable to its members, directors or officers, except that income on profit may be distributable to a member which is another nonprofit organization, and that was located at an affected property for not less than ninety (90) days prior to the initiation of the public activity.

SHORT-TERM OWNER: A person who owns, by any of several legal definitions, or is purchasing the property in question, and can be determined to be residing in it as his legal residence or utilizing it as his bona fide place of business for a period of less than one hundred eighty (180) days prior to initiation of the public activity.

TENANT: Displaced persons or businesses who rented, leased or otherwise "occupied" real property for not less than ninety (90) days prior to initiation of the public activity. (Ord. 85-240; Ord. 86-214)

17-2-202: ADMINISTRATIVE GUIDELINES: The Director of Community Development or his designated representative shall administer the policy set forth in this Article and shall from time to time promulgate guidelines, rules and regulations for the operation of this policy. Any such guidelines, rules or regulations promulgated by the Director of Community Development or his designated representative shall be subject to City Council approval. (Ord. 85-240)

17-2-203: RELOCATION ASSISTANCE ADVISORY PROGRAMS: Whenever a program or project is to be undertaken by the City that will result in displacement of persons from real property, the City shall assure that a relocation advisory program will be available. Said advisory program will include such staff, measures and facilities as may be necessary or appropriate in order to provide each relocatee with a full range of information, services and options to ensure that displacement will occur without undue hardship. (Ord. 85-240)

17-2-204: EXPENSES FOR DISPLACED PERSONS AND DISPLACED BUSINESSES:

- A. Moving and Related Expenses: When displacing any displaced person or displaced business or tenants from real property due to acquisition of that property for public purpose or use, the City shall make fair and reasonable relocation payments to such persons for:
1. Actual reasonable expenses incurred in moving himself, his family, business, farm operation or other personal property;
 2. Any actual direct personal property loss caused by being displaced;
 3. Actual expenses involved in searching for a replacement relocation; or
 4. A fixed settlement in lieu of paragraphs 1, 2, and 3, determined according to a schedule pre-established by the City; such schedule shall not exceed that amount established in the City Re-

A,4) location Policy for residential units, and for displaced businesses, a payment equal to the average annual net earnings of the business for the two (2) years prior to displacement, but not to exceed that amount established in the City Relocation Policy. If, however, the business has not been in operation for a full two (2) years prior to displacement, then the average annual net earnings will be projected by the City based upon the amount of actual earnings of the business. (Ord. 85-240)

17-2-205: REPLACEMENT HOUSING

PAYMENTS:: When displacing persons for a public use or purpose, the City shall make reasonable payments to insure such persons displaced will be relocated to, at least, comparable quarters, and where possible, improved conditions, but in no case to units not deemed to be safe, sound, decent and sanitary in accordance with applicable building, fire, housing and health codes. These payments shall include:

- A. For Long-Term Owner - Residential. Any payments necessary to reestablish a long-term owner displaced from his dwelling in a suitable replacement site at no more monthly expense than prior to being relocated. Such payments shall be calculated in accordance with the City Relocation Policy.
- B. For Tenants and Short-Term Owners - Residential. For tenants and short-term owners displaced from a dwelling by public action, and owners who choose not to become homeowners after displacement, a payment as follows:
 1. Any rent differential the person incurs or that amount of rent that constitutes a financial hardship, whichever is less, will be paid for a period, not to exceed four (4) years, to permit the person to relocate to suitable quarters. Such payment shall be calculated in accordance with the City Relocation Policy. (Ord. 85-240)

17-2-206: ASSISTANCE TO PERSONS OR BUSINESSES IN OBTAINING AN ADE-

QUATE REPLACEMENT SITE: When initiating any activity that will result in displacement of persons or businesses, the City shall provide technical assistance to assist them in obtaining an adequate replacement site. (Ord. 85-240)

17-2-207: DUPLICATE PAYMENTS PROHIBITED:

ED: No payment or assistance provided for in this Article shall be required if the displaced person receives a payment required by the laws of eminent domain which is determined by the City Council to have substantially the same purpose and effect as such payment under this policy. (Ord. 85-240)

17-2-208: APPEALS:

- A. Any person or business aggrieved by the final administrative determination concerning eligibility for relocation payments or benefits authorized by this Part 2 may have such determination reviewed by a Hearing Officer, who shall be appointed by the Director of Community Development with the consent of City Council, provided, that a written notice of appeal is filed with the Director of Community Development within ten (10) days after the final administrative decision, and that the notice of appeal briefly specifies the grounds of appeal. The Hearing Officer shall have the power to affirm or modify the action of the administration, or to refer any matter so appealed back to the administration for further consideration.
- B. The decision of the Hearing Officer may be appealed to the Colorado Springs City Council in accordance with the requirements of Section 14-18-114 of the Code of the City of Colorado Springs 1980, as amended.
- C. In the event that neither the administrative determination, or the decision of the Hearing Officer, as applicable, is not appealed within ten (10) days from the date of each decision, then each decision shall constitute final agency action for all purposes under this Part 1 and applicable State statutes and rules and regulations. (Ord. 85-240; Ord. 86-214)

CHAPTER 18
PARKS AND RECREATION

ARTICLE 1	ADMINISTRATION
Part 1	Department of Parks and Recreation
Part 2	Park and Recreation Advisory Board
Part 3	Golf Advisory Commission
Part 4	Arborist Board
Part 5	Behavior Incident Review Board
ARTICLE 2	RULES AND REGULATIONS
Part 1	General Regulations
Part 2	Boat Regulations
ARTICLE 3	PERMIT REQUIREMENTS
Part 1	Temporary Park Permits
ARTICLE 4	TREES AND SHRUBS
Part 1	Planting and General Requirements
Part 2	Diseased, Nuisance Trees and Shrubs
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ARTICLE 5	OFFENSES
Part 1	Offenses Relating to Park Property
Part 2	Offenses Relating to Sanitation
Part 3	Offenses Relating to Animals
Part 4	Offenses Relating to Persons
Part 5	Offenses Relating to Vehicles and Traffic

CHAPTER 18 PARKS AND RECREATION

ARTICLE 1 ADMINISTRATION

PART 1 DEPARTMENT OF PARKS AND RECREATION

SECTION:

18-1-101: Definitions

18-1-102: Department and Director of
Parks and Recreation

18-1-103: Duties of Marshal

18-1-104: Enforcement of Chapter

belonging to the City. Park property shall include all trees, plants, shrubs and vegetation, all wildlife alive or dead, all natural terrain formations, all rocks, stones and boulders, and all improvements to the park areas such as tables, benches, railings, fountains, canopies, roads, sidewalks, fireplaces, buildings, bridges, stands and equipped play areas.

PARK ROADS: Roads and drives in and upon the parks of the City which are intended for public use only for the purpose of enjoyment of the parks for recreational and open space purposes and are not intended to be used for any public purpose normally and usually associated with and incidental to public streets and thoroughfares. Park roads shall not be used for purely private purposes, such as access to private property adjoining park property, except with express permission of the City Council. (Ord. 4716; 1968 Code § 10-2)

18-1-101: **DEFINITIONS:**¹ The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

ALCOHOLIC LIQUOR: Any beverage defined in Section 9-1-102 of this Code as malt liquor, vinous liquor or spirituous liquor. (Ord. 4716)

DEPARTMENT OF PARKS AND RECREATION or DEPARTMENT: The Department of Parks and Recreation of the City of Colorado Springs.

DIRECTOR: The Director of the Department of Parks and Recreation of the City of Colorado Springs, or his designated representative.

MARSHAL: Any person appointed by the Director of the Department of Parks and Recreation and designated by him as Marshal. (Ord. 79-1)

PARK: Those areas, structures or facilities which are parks, parkways and recreation facilities owned by the City and which are under the control, management and supervision of the Department of Parks and Recreation.

PARK PROPERTY: Any real or personal property, or improvements of or relating to parks thereto

18-1-102: **DEPARTMENT AND DIRECTOR OF PARKS AND RECREATION:** The Department of Parks and Recreation and the Director of Parks and Recreation are established and organized as set out in Chapter 2, Article 3 of this Code. (1980 Code)

18-1-103: **DUTIES OF MARSHAL:** It shall be the duty of a Marshal to enforce the rules and regulations promulgated by the Director concerning the use of parks and behavior of persons within parks, the ordinances of the City, and the laws of the State of Colorado. A Marshal is authorized to issue summons and complaints for violations of the ordinances of the City occurring within the parks and within any other area of the City where they have been assigned patrol jurisdiction by the City Manager. A Marshal shall have the power to arrest all

¹ For definitions of general application, see Section 1-1-203 of this Code.

persons in the parks found in the act of violating any law or ordinance or aiding or abetting any such violations and shall arrest any person found under circumstances which would warrant a reasonable man in believing that such person has committed or is about to commit a violation of law. A Marshal shall have the authority to revoke a temporary park permit if, in his opinion, there is imminent danger to the public health, safety or welfare. (Ord. 79-1; 1968 Code § 10-4)

18-1-104: ENFORCEMENT OF CHAPTER: The Director and personnel of the Department of Parks and Recreation shall, in connection with their duties imposed by law, enforce the provisions of this Chapter, and said Director and personnel of the Department of Parks and Recreation shall have the authority to:

- A. Eject from any park any person acting in violation of this Chapter; and
- B. Seize and confiscate any property, thing or device in any park used in violation of any of the provisions of this Chapter. (Ord. 4716; 1968 Code § 10-38)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 1 ADMINISTRATION

PART 2 PARK AND RECREATION ADVISORY BOARD

SECTION:

- 18-1-201: Board Created, Appointments
 18-1-202: Powers and Duties
 18-1-203: Coordinate With Planning Commission

18-1-201: **BOARD CREATED, APPOINTMENTS:** There is hereby created the Park and Recreation Advisory Board, to be composed of seven (7) members appointed by the City Council from residents of the general area or community who are interested in the development of the park and recreation resources and facilities of the community. Appointments to the Board shall be made in such manner as to achieve staggered three (3) year terms. Vacancies owing to death or resignation shall be filled by appointment for the unexpired term. (Ord. 1757; 1968 Code § 1-157; 1980 Code)

18-1-202: **POWERS AND DUTIES:** The Park and Recreation Board shall adopt rules for its own organization and procedure. Said Board shall act in an advisory capacity to the City Council and the City Manager in all matters pertaining to the planning, development, improvement, beautification, equipping and maintaining of the public parks, playgrounds, recreational facilities and resources and center street parkings of the City, both within and without the corporate limits, excluding, however, the municipal golf courses together with the golf course club houses and appurtenant facilities.¹ Said Board shall have the following duties: (Ord. 1757; Ord. 2130)

- A. Annually, to review the budget prepared for the Department by the Director and to submit to

- A) the City Manager suggestions and recommendations for expenditures for the maintenance and development of the parks and recreational facilities of the City for the ensuing fiscal year. Such review and recommendations shall be submitted in time for inclusion in the City Manager's annual budget, but shall be advisory only.
- B. From time to time to prepare and submit to the City Manager plans and recommendations for the development of the park and recreation facilities of the City, together with its recommendations for the amounts to be expended each year for said purposes.
- C. To prepare and submit to the City Manager a general overall program of park and recreational developments contemplating the progressive maximum development of the recreational facilities, landscaping and beautification of the City, having in mind the enjoyment and use of said facilities by the greatest number of persons and the general benefits to the City and its citizens as a whole rather than the special benefits to particular groups and interests. Such plans shall list said projects in the order of preference or priority of accomplishment.
- D. To recommend to the City Council the adoption of rules, regulations and ordinances for the use of park and recreation facilities of the City, and the names for City parks. (Ord. 1757; Ord. 76-152; 1968 Code § 1-158)

- 18-1-203: **COORDINATE WITH PLANNING COMMISSION:** The Park and Recreation

1. See Part 3 of this Article for Golf Advisory Commission.

Advisory Board shall coordinate its work with that of the Colorado Springs Planning Commission so that both shall be working for the accomplishment of the same general purposes with reference to park and recreation development. Said Board shall hold periodic meetings at which all interest groups and organizations shall have an opportunity to appear and be heard with reference to particular objectives, programs or developments. (Ord. 1757; 1968 Code § 1-159)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 1 ADMINISTRATION

PART 3 GOLF ADVISORY COMMISSION

SECTION:

- 18-1-301: Commission Created; Appointments
 18-1-302: Meetings; Reports
 18-1-303: Powers and Duties

18-1-301: COMMISSION CREATED; APPOINTMENTS: There is hereby created the Golf Advisory Commission to be composed of five (5) members appointed by the City Council. Appointments to the Commission shall be made in such manner as to achieve staggered three (3) year terms.

Vacancies owing to resignations or other reasons shall be filled by appointments for the unexpired term.

No member of the Board of the Patty Jewett Golf Club Association, or Valley Hi Golf Club Association, shall be eligible to serve upon the Advisory Commission. (Ord. 75-162; 1968 Code § 1-155)

18-1-302: MEETINGS; REPORTS: The Commission shall meet at least once a month and within ten (10) days after each meeting shall file with the City Manager a copy of the minutes of said meeting. Any and all recommendations included within the minutes shall be transmitted to the City Council by the Manager. The Commission shall also file with the City Manager on or before January 1 of each year a written annual report of the activities and recommendations of the Commission. (Ord. 75-162; 1968 Code § 1-156)

18-1-303: POWERS AND DUTIES: The Golf Advisory Commission shall select a chairman, vice chairman and secretary from its membership and shall adopt rules and by-laws for its own organization and procedure. Said Commission shall act in an advisory capacity to the City Council and the City Manager in regard to the following:

- A. All fiscal policies, including fees and charges, relating to the municipal golf courses;
- B. The operation, use, maintenance, improvement, expansion and other matters relating to the municipal golf courses with all facilities and appurtenances, including the club houses and facilities.
- C. To recommend to the City Council the adoption of rules, regulations and ordinances for the use of municipal golf courses. (Ord. 75-162; Ord. 81-128; 1968 Code § 1-156)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 1 ADMINISTRATION

PART 4 ARBORIST BOARD

SECTION:

18-1-401: Board Created; Membership

18-1-402: Meetings; Records

18-1-403: Powers and Duties

18-1-401: BOARD CREATED; MEMBERSHIP:

There is hereby created a board to be known as the Arborist Board. Such Board shall be composed of five (5) members who shall be appointed by the City Council. The Board shall include two (2) professional arborists, a nurseryman, a landscape designer and a sprayer. Terms of service shall be three (3) years or until successors are appointed. A chairman and vice chairman shall be elected each year, and vacancies owing to death or resignation shall be filled by appointment for the unexpired term.

The Director of Parks and Recreation or his designated representative shall be the secretary of the Arborist Board. (Ord. 4716; 1968 Code § 1-174)

18-1-402: MEETINGS; RECORDS: The members of the Arborist Board shall meet each month at a regular date, time and place, to be determined by said Board. Minutes shall be maintained of all meetings, and the Board shall adopt rules for its own organization and procedures. (Ord. 4716; 1968 Code § 1-174)

18-1-403: POWERS AND DUTIES:

A. The Arborist Board shall act as a reviewing body for the purposes of determining professional qualifications and competence to engage in the business of cutting, trimming, pruning, spraying or removing trees by giving written, oral and practical license examinations. The Board shall, when necessary, recommend to the City Council adoption of rules and regulations pertaining to the tree service

A) business in the City as well as matters of general forestry practices, and it may hear complaints from any citizen of the City including any of its own members, relating to the tree service business. Upon receipt of a complaint and after informing the licensee of the complaint and giving the licensee a chance to be heard, the Board may suspend a tree service license for up to sixty (60) days or may revoke such license.¹ The hearing procedure will be as follows:

1. Whenever the Director has reasonable cause to believe that a tree service licensee is acting contrary to City ordinances, rules, regulations or good industry practices with regard to tree service activities, or upon complaint of the same by third persons, he shall provide notice to the affected tree service licensee by personal service, and if unfeasible, by certified mail, return receipt requested, of the alleged violations or complaints. The notice shall specify the alleged complaints or violations, the right to an attorney, right to cross-examine and present witnesses, and of the date, time and place of the hearing. The hearing shall occur not less than ten (10) days after receipt of the notice of hearing by the licensee.

2. At the hearing, the licensee and the City may be represented by their attorney, may present evidence, and may cross-examine witnesses. A verbatim transcript of the hearing shall be required. The decision of the Board shall be based upon competent evidence.

3. If the decision of the Arborist Board is not favorable to the licensee, an appeal of the decision of the arborist Board may be made to the courts as provided by the Colorado Rules of Civil Procedure.

B. The Arborist Board shall act as a reviewing body for appeals of the Director's decision in issuing notice and orders relating to infested, diseased, or nuisance trees and shrubs under

1. See Chapter 8, Article 3, Part 3, relating to tree service business licenses.

- B) Part 2 of Article 4 of Chapter 18 of this Code.
- C. The Arborist Board shall act as a reviewing body for appeals of the Directors decision concerning any other matters relating to urban forestry. The appeal must be perfected by a notice of appeal, filed with the secretary of the arborist Board and stating the grounds therefor, within ten (10) days of the decision. The hearing before the Arborist Board shall be held at the next regular meeting of the Board, but not less than ten (10) days from the date of the notice. The hearing shall be held in accordance with subparagraphs 2 and 3 of this Section. (Ord. 4716; Ord. 82-54; 1968 Code § 1-175)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 1 ADMINISTRATION

PART 5 BEHAVIOR INCIDENT REVIEW BOARD

SECTION:

- 18-1-501: Purpose
- 18-1-502: Creation
- 18-1-503: Jurisdiction
- 18-1-504: Definitions
- 18-1-505: Behavior Incident Report
- 18-1-506: Rules and Regulations
- 18-1-507: Party in Interest
- 18-1-508: Notice of Appeal
- 18-1-509: Conduct of the Behavior Incident Review Board
- 18-1-510: Evidence
- 18-1-511: Public Hearing
- 18-1-512: Notice of Hearing
- 18-1-513: Verbatim Transcript
- 18-1-514: Hearing Procedures
- 18-1-515: Findings of Fact and Conclusions of Law
- 18-1-516: Criteria for Suspension
- 18-1-517: Effect of Appeal
- 18-1-518: Severance Clause

18-1-501: **PURPOSE:** It is the purpose of this Part 5 to provide an efficient, timely and fair review process of the decisions of the Director of Parks and Recreation with respect to any decision to suspend a disabled person, as defined herein, from the Department's Therapeutic and Adaptive Recreation Program as a result of emotional and/or behavioral disorders which have created an eminent hazard to the health, safety and welfare of other participants, staff, and the public, or the disabled person himself.

In keeping with well-established principles with respect to the provision of therapeutic and adaptive recreation programs, it is hereby declared that all decisions made pursuant to this Part 5 shall balance the right of a disabled person to be provided the therapeutic and adaptive recreational programs in the least restrictive environment against the need for protection of the public health, safety and welfare. (Ord. 85-4)

18-1-502: **CREATION:** There is hereby created a Behavior Incident Review Board. The Board shall consist of five (5) members: one physician, one special education teacher, one psychologist/psychiatrist, one attorney, and one lay person. The selection and appointment of the Behavior Incident Review Board members shall be made by the City Council. The Board shall hold hearings pursuant to the provisions set forth in this Part 5 and make the decisions as provided herein. (Ord. 85-4)

18-1-503: **JURISDICTION:** The Behavior Incident Review Board's jurisdiction shall be limited to hearing appeals from any decision of the Director of Parks and Recreation as a direct result of the filing of a Behavior Incident Report, or by appeal of any other decision of the Parks and Recreation which is made pursuant to the requirements of this Part 5. (Ord. 85-4)

18-1-504: **DEFINITIONS:** As used in this Part 5, unless the context requires otherwise:

- A. CITY: the City of Colorado Springs.
- B. DIRECTOR: The Director of Parks and Recreation or his designee.
- C. RESPONDENT: Any disabled person who is the subject of a Behavior Incident Report.
- D. DISABLED PERSON: Shall mean the following:
 - 1. A person who is mentally handicapped, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally impaired, orthopedically impaired, or other health impaired person with specific learning disabilities who, by reason thereof, requires special education and related services; or

- D) 2. Persons who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include, but are not limited to, such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; or

3. Any person whose intellectual functions have been deficient since birth or whose intellectual development has been arrested or impaired by disease or physical injury to such an extent that he lacks sufficient control, judgment, and discretion to manage his property or affairs or who, by reason of this deficiency and for his own welfare or the welfare or safety of others, requires protection, supervision, guidance, training, control, or care; or

4. A person whose disability is attributable to mental disability, cerebral palsy, epilepsy, autism, or neurological impairment, which may have originated during the first eighteen (18) years of life, and which can be reasonably expected to continue indefinitely, and which constitutes a substantial handicap, including but not limited to, a person who has a permanent physical handicap for which substantial supervision and training are required; or

5. Any person suffering from a long-term physical impairment or illness who has significant limited intellectual capacity, or has significant identifiable emotional or behavioral disorder, or identifiable perceptual or communicative disorders, or speech disorders.

- E. BOARD: The Behavior Incident Review Board.

- F. EMINENT HAZARD: Any overt act or omission by a disabled person while participating in any or all of the therapeutic and adaptive recreational programs under the auspices of the City of Colorado Springs' Parks and Recreation Department Program, or pursuant to an agreement between the City of Colorado Springs and any school district required to establish an individualized education program, which results in an immediate, direct and substantial threat to the personal health, safety and welfare of the respondent, any other disabled person, a member of the staff, or members of the public, and including but not limited to:

- F) 1. All forms of aggravated assault as well as for sexual conduct or assault with a deadly weapon;
2. Continued verbal abuse or profanity;
3. Urination, defecation or vomiting on any of the above persons;
4. Pushing or shoving;
5. Any overt behavior which results in tissue damage, including slapping, scratching, biting, picking, head-banging, eye-gouging, or other forms of self-mutilation or mutilation of others. (Ord. 85-4)

18-1-505: BEHAVIOR INCIDENT REPORT: The Director of Parks and Recreation is hereby authorized to initiate and promulgate administrative policies and procedures for the establishment of a Behavior Incident Report system, which will enable the Director to make decisions as to whether or not a disabled person should or should not be suspended from any or all of the therapeutic and adaptive recreational programs provided by the Department. (Ord. 85-4)

18-1-506: RULES AND REGULATIONS: The Director of Parks and Recreation is hereby authorized to promulgate such rules and regulations as are reasonably necessary to effectuate the requirements of this Part 5, including but not limited to, the Behavior Incident Report Policies and Procedures, Standards and Criteria with respect to the completion of Behavior Incident Reports, establishment of informal conference procedures, reevaluation procedures, and such other and further processes as are necessary to insure the fair, equitable and efficient administration of this Part 5. (Ord. 85-4)

18-1-507: PARTY IN INTEREST: The following persons, only if making an appearance of record, are hereby defined as parties and are entitled, either by themselves or through a representative, to participate in a hearing before the Behavior Incident Review Board:

- A. Any disabled person subject to a behavior incident review report, or his parents, guardian ad litem, or legal guardian;
- B. Any disabled person, or his parents, guardian ad litem, or legal guardian, who has been directly affected by any behavior of another disabled

- B) person which is the subject of the Behavior Incident Report;
- C. A member of the Parks and Recreation Department staff; or
- D. Any other person, organization or group or governmental entity who demonstrates to the Behavior Incident Review Board that he has a significant interest in the subject matter of the hearing.

For purposes of this Section, an "appearance of record" shall mean either:

1. An oral statement sufficiently identifying person making the same or by his representative, made at the hearing; or
2. A written statement giving the name and address of the person making the appearance, signed by him or his representative, and filed with the Board either prior to the commencement of the hearing or when otherwise permitted by the Board. (Ord. 85-4)

18-1-508: NOTICE OF APPEAL:

- A. Except as expressly provided herein, any party in interest may appeal any decision of the Director made pursuant to this Part 5, provided such party files with the Director a written notice of appeal within ten (10) days after the date of the decision of the Director. The notice of appeal shall state the grounds of appeal. The failure of any person to file a notice of appeal of any decision of the Director pursuant to 18-5-107 shall be considered to be a waiver of that person's rights, as well as a failure to exhaust administrative remedies, and the decision of the Director shall be deemed to be final agency action with respect to any item not appealed from.
- B. Notwithstanding the requirements of subsection A above, any manifestation by the respondent, physical, written or verbal, which would tend to imply dissatisfaction with any decision of the Director, or of the respondent's parents or legal guardian, regardless of its timing, shall automatically be treated as a notice of appeal, and shall be acted upon pursuant to the requirements of this Part 5 with respect to appeals to the Behavior Incident Review Board. (Ord. 85-4)

18-1-509: CONDUCT OF THE BEHAVIOR INCIDENT REVIEW BOARD:

- A. No member of the Behavior Incident Review Board shall communicate, directly or indirectly, with any party or his representative in connection with any issue involved before the Board pursuant to this Part 5 except upon notice and opportunity for all parties to participate; and
- B. No member of the Behavior Incident Review Board shall use or rely upon any communication, reports, staff memoranda, or other materials prepared in connection with the particular matter before the Board unless made a part of the record in the case; and
- C. No member of the Behavior Incident Review Board shall inspect any site with any party or his representative unless all parties are given an opportunity to be present. (Ord. 85-4)

18-1-510: **EVIDENCE:** With respect to determining findings of fact and conclusions of law, the Behavior Incident Review Board may receive oral testimony, demonstrative or written evidence, as long as said evidence has any tendency to make the existence of any fact that is of consequence to determination of the matter before it more probably or less probable than it would be without the evidence. Hearsay shall be admissible except that the Board shall take into account that such evidence is hearsay with respect to the weight given to it. In any event, the Board shall not admit any evidence which a reasonable and prudent person would not rely upon in the conduct of their everyday affairs. (Ord. 85-4)

18-1-511: **PUBLIC HEARING:** Before entering any decision on any matter subject to the jurisdiction of the Behavior Incident Review Board, the Board shall hold at least one public hearing thereon. Notice of the time and place of the public hearing shall be given to all parties of record as set forth in Section 18-1-512. The public hearing may be continued from time to time as necessary to gather additional information, and no additional notice need be given if the hearing be adjourned to date certain by the Board. Upon reception of all evidence, the hearing of arguments, the Board, upon motion, shall have the discretion to adjourn to a closed meeting in order to make a final determination as to findings of fact and conclusions of law; provided, however, that the final

decision of the Board shall be issued at a public meeting after notice provided in the manner set forth in Section 18-1-512, but in any event, not later than fifteen (15) days after the reception of evidence and arguments by the parties. (Ord. 85-4)

18-1-512: NOTICE OF HEARING:

- A. Notice of a public hearing before the Behavior Incident Review Board shall contain the following information:
 - 1. The date, time and place of hearing;
 - 2. The nature of the appeal;
 - 3. Notice that interested parties may appear and be heard;
 - 4. A statement that the hearing shall be held pursuant to this Part 5, the rules and regulations of the Department, and such other bylaws which have been enacted by the Board;
 - 5. The address and telephone number of the Director of Parks and Recreation or his designee from whom additional information about the subject matter of the hearing may be obtained.
- B. Such notice of hearing shall be given by:
 - 1. Publication in a newspaper of general circulation in the City of Colorado Springs at least ten (10) days prior to the date of hearing; and
 - 2. By mailing copies of such notice at least ten (10) days before the date of the hearing to the appellant respondent and all other persons who have had a direct or indirect role in the Behavior Incident Review process, by certified mail, return receipt requested.
- C. All matters pertaining to the appeal in the custody of the Director of Parks and Recreation shall be open to public inspection during regular office hours. Such files shall not be removed from the Park Department, except that such files may be removed or inspected at other times by any person pursuant to Court order or by permission of the Director. (Ord. 85-4)

18-1-513: VERBATIM TRANSCRIPT: A verbatim record of the proceedings before the Behavior Incident Review Board shall be made by an electronic recording device, or by such other appropriate method which will insure the preservation of an accurate and complete record of the matters before the Board. (Ord. 85-4)

18-1-514: HEARING PROCEDURES: In the event that an appeal is filed pursuant to Section 18-1-508, the matter before the Behavior Incident Review Board shall be given a de novo review, and the record of decision of the Director of Parks and Recreation shall not be considered during the decision-making process. At the hearing, any party in interest shall be given an opportunity to be heard, either individually, or by a representative, and shall be entitled to present evidence, cross-examine witnesses, and to make arguments before the Board. At the hearing, the City Attorney, or one of his assistants, shall act as a legal advisory to the Board, and not as an advocate on behalf of the Department. (Ord. 85-4)

18-1-515: FINDINGS OF FACT AND CONCLUSIONS OF LAW: Subject to the requirements of Section 18-1-516, the Behavior Incident Board shall make a decision on each item which is before it. The decision of the Board shall be made after considering all of the admissible evidence before it and applying that evidence to the requirements of this Part 5. When the Board renders its decision, said decision shall be supported by written findings of fact from the record and conclusions of law thereof, and the findings and conclusions shall set forth and demonstrate the manner in which the decision meets the requirements of this Part 5. The Board may require such conditions in addition to its decision for any matter which it deems reasonable or necessary in order to further the purposes of this Part 5. The decision of the Board shall be final agency action. Nothing in this Section, however, shall preclude the Board from utilizing its own expertise and experience in evaluating the evidence before it. (Ord. 85-4)

18-1-516: CRITERIA FOR SUSPENSION:

- A. Notwithstanding any other provision in this Part

- A) 5 to the contrary, the Behavior Incident Review Board shall make no decision suspending a disabled person from any or all therapeutic and adaptive recreation programs within the Parks and Recreation Department unless it makes an express finding that, based upon clear and convincing evidence, the respondent's behavior constitutes an imminent hazard to the health, safety and welfare of the respondent, other disabled persons, members of the staff, or the general public.
- B. The amount of any suspension, if applicable, shall be the minimum amount of time necessary to correct the behavior that has caused the imminently hazardous condition to exist, but in no case shall the respondent be suspended from therapeutic and adaptive recreational programs for more than sixty (60) days without a further reevaluation by a Program Director, which shall be reviewed by the Director of Parks and Recreation, and which shall be subject to appeal as provided herein. (Ord. 85-4)

18-1-517: EFFECT OF APPEAL: The filing of a notice of appeal by any interested party, or as a result of an automatic appeal pursuant to Section 18-1-508, shall not act as a stay of the Director's decision to suspend a disabled person from any or all of the therapeutic and adaptive recreational programs in the Parks and Recreation Department. (Ord. 85-4)

18-1-518: SEVERANCE CLAUSE: Should any section, clause, provision, sentence or word of this Part 5 be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Part 5 as a whole, or any parts thereof, other than the part so declared to be invalid. For this purpose, this Part 5 is declared to be severable. (Ord. 85-4)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 2 RULES AND REGULATIONS

PART 1 GENERAL REGULATIONS

SECTION:

- 18-2-101: Authority to Promulgate
- 18-2-102: Procedure for Adoption
- 18-2-103: Park Hours
- 18-2-104: Closing of Parks
- 18-2-105: Park Uses for Commercial Purposes
- 18-2-106: Applicability of City Ordinances

official City publication,² or publication of a notice one time in said publication, that such rules and regulations have been adopted, and are on file with the City Clerk and the Director. The date of adoption shall also be stated. All rules and regulations so adopted and filed shall be open to public inspection at all reasonable times. Cancellation by the Director of any current rule or regulation shall become effective upon publication as above. (Ord. 4716; Ord. 81-128; 1968 Code § 10-37)

18-2-101: AUTHORITY TO PROMULGATE: The Director of Parks and Recreation is hereby authorized to adopt reasonable rules and regulations regarding the time, place, limitation and extent of recreational use of any existing recreational facility in any park, including the uses now existing or such as may hereafter become available. In making such rules and regulations, the Director shall consult national standards and authorities on traffic, water safety, and the operational safety of recreational devices, structures and functions, to the end that the welfare and safety of the public using such facilities may be protected and the greatest recreational use made available to the public. Additional rules and regulations as may be necessary shall be adopted to implement applicable Federal and State laws. (Ord. 4716; 1968 Code § 10-36)

18-2-102: PROCEDURE FOR ADOPTION: The Director may propose the adoption or amendment of any reasonable or necessary rules and regulations. Such proposals shall be first reviewed by the Park and Recreation Advisory Board,¹ unless such proposal pertains to the municipal golf courses. Proposals pertaining to municipal golf courses shall be first reviewed by the Golf Advisory Board. The recommendation of said Boards shall be reviewed by the City Attorney. After approval or correction by the City Attorney, the Director shall promulgate such rules as he may adopt by filing three (3) copies with the City Clerk. No rule or regulation shall be in full force and effect until it has been approved by the City Council and until published by one of two (2) methods: either publication in full one time in the

18-2-103: PARK HOURS: The parks shall be open for the use of the public during the hours of five o'clock (5:00) A.M. until nine o'clock (9:00) P.M. during the months of November to April, inclusive, and during the hours of five o'clock (5:00) A.M. until eleven o'clock (11:00) P.M. at all other times. It shall be unlawful for any person, other than the employees of the City in the performance of their official duties, to enter or remain in, the parks at any time outside such hours, except during official City-sponsored activities; provided, however, the Director may extend or limit the time specified above by issuing a temporary park permit in accordance with Section 18-3-101 of this Code. The Director is authorized to promulgate any necessary rules and regulations in accord with Section 18-2-102 closing any park roads, vehicular access areas, or trails beginning at nine o'clock (9:00) P.M. at any time during the year. (Ord. 4716; Ord. 84-89; 1968 Code § 10-5)

18-2-104: CLOSING OF PARKS: The Director is hereby authorized to close any park or portion thereof at any time for any interval of time, whether temporarily or at regular stated intervals as he shall find necessary, for the protection of park property or for the public health, safety or welfare. (Ord. 4716; 1968 Code § 10-6)

18-2-105: PARK USES FOR COMMERCIAL PURPOSES: "Commercial purposes" for the purpose hereof, shall be defined as the use of a park or portion thereof for an activity for which a fee

1. See Article 1, Part 2 of this Chapter.

2. See Section 1-1-601 of this Code.

or admission is charged, a class or course of instruction for which a fee is charged, a franchise or concession granted or given for use of park property, the use of a park or portion thereof for the purpose of commercial movie making, or any other activity from which monetary benefit is to be derived directly or indirectly. Any person desiring to use a park or portion thereof for such commercial purpose shall apply to the City Manager in accordance with Chapter 19, Article 2, Part 2 of this Code and such rules and regulations as the Director may prescribe. The City Manager, before ruling on such application, shall forward the application to the Director for his written comments. The Director may submit such application to the Park and Recreation Advisory Board for their comments unless such application pertains to the use of municipal golf courses. The Director may submit such applications pertaining to the use of municipal golf courses to the Golf Advisory Commission for their comments. (Ord. 4716; Ord. 81-128; 1968 Code § 10-19)

18-2-106: APPLICABILITY OF CITY ORDINANCES: All ordinances of the City, specifically and without limiting the generality of Chapter 21, Public Offenses and Chapter 22, Motor Vehicles, shall be in full force and effect in the City parks. If there is a conflict between the provisions of this Chapter and other ordinances of the City, the more restrictive thereof shall apply.

All provisions specified in Article 5 of this Chapter shall be applicable to all parks within and without the boundaries of the City. (Ord. 4716; 1968 Code §§ 10-20, 10-20.1)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 2 RULES AND REGULATIONS

PART 2 BOAT REGULATIONS

SECTION:

18-2-201: Definitions
 18-2-202: Authority of Director
 18-2-203: Boat Permits Required
 18-2-204: Boat Permits; Application for
 18-2-205: Boat Permits; Terms of; Waiver
 18-2-206: Unattended Boats; Impoundment

18-2-201: **DEFINITIONS:**¹ The following terms, as used in this Part 2, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

BOAT: Every description of watercraft used or capable of being used as a means of transportation on water.

HAND PROPELLED BOAT: Any boat that is propelled solely by human muscular effort, which includes, but is not limited to, the use of oars, paddles or other contrivances, and upon which boat no mechanical propulsion device or sail is used in the operation of the boat.

MOTORBOAT: Any boat propelled by machinery whether or not such machinery is the principal source of propulsion.

SAILBOAT: Any boat propelled solely by the effect of wind on a sail. For the purposes of this Part 2, any boat propelled by both sail and machinery of any sort shall be deemed a motorboat, when being so propelled. (Ord. 80-47; 1968 Code § 10-24.18)

18-2-202: **AUTHORITY OF DIRECTOR:** It shall be unlawful for any person to use or permit to be used or operated on any waters in the park any boat except in those cases, at those times and in the manner prescribed by the Director. (Ord. 80-47; 1968 Code § 10-24.18)

18-2-203: **BOAT PERMITS REQUIRED:** It shall be unlawful to use any boat upon any waters in any park unless a permit for such use has been issued as herein provided. (Ord. 80-47; 1968 Code § 10-24.18)

18-2-204: **BOAT PERMITS; APPLICATION FOR:** Each person applying for a boat permit shall present to the City Clerk the following:

- A. Evidence of a current Colorado State boat registration certificate and number, unless exempt by statute because of the type of boat.
- B. Insurance Required. No boat permit shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee:

1. For all motorboats:

Bodily Injury and Property Damage:

Combined single limit \$300,000.00

2. For all sailboats and hand propelled boats:

Bodily Injury and Property Damage:

Combined single limit \$100,000.00

¹ For definitions of general application, see Section 1-1-203 of this Code.

- B) 3. Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the City at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the permit.
- C. A statement that the permittee shall be responsible for any and all damage to property or injuries to persons arising out of the exercise of the permit, and the permittee shall indemnify and save harmless the City and all of its officers, agents and employees from all suits, actions or claims of injuries received or sustained by any person or persons or property on account of the use of the permit or of any act or omission of the permittee thereunder, his agents or employees, or on account of the failure of the permittee to observe this Section or the rules and regulations or ordinances pertaining to use of boats by the permittee.
- D. Inspection. A certificate of inspection by one of the following:
 - 1. A recognized boat dealer of the type sought to be inspected, which dealer shall be located in the City and shall possess a current dealer permit;
 - 2. The United States Coast Guard Auxiliary;
 - 3. The United States Navy; or
 - 4. The City, through its authorized agent(s).
- E. Each inspector may be authorized by the Director upon application by letter. Each authorized inspector shall inspect for minimum safety equipment requirements as set forth by the United States Coast Guard, Colorado State Division of Parks and Recreation and City ordinances or regulations, which inspection shall be on a form to be approved by the Director.
- F. Dealer Permit. Marine craft, boat dealers or others engaged in the business of selling boats

- F) may obtain special dealer permits for use on boats they may be testing or demonstrating. By applying for such dealer permits, such dealer acknowledges that the boat as tested or demonstrated carries all safety equipment required by the State of Colorado, United States Coast Guard, and City ordinances and regulations. (Ord. 80-47; Ord. 83-175; 1968 Code § 10-24.20)

18-2-205: **BOAT PERMITS; TERMS OF; WAIVER:**

- A. Upon the issuance of a permit, the plate issued by the City shall be permanently affixed in a conspicuous location on an exterior surface of the boat.
- B. Each permit as issued is a nontransferable, revocable permit which shall continue in full force and effect from the date of issuance through December 31 of the year of issuance of the permit unless sooner terminated, discontinued or revoked by the provisions of this ordinance or rules and regulations applicable thereto or by legal action or operation of law. There shall be no proration of fees for any part of the year.
- C. The Director may, from time to time, close the waters of the City to public use for use by the City in promoting or sponsoring special events, and may waive the permit requirement for such events. (Ord. 80-47; 1968 Code § 10-24.20)

18-2-206: **UNATTENDED BOATS; IMPOUNDMENT:**

It shall be unlawful for any person to leave unattended any boat on any waters of any park. Any boat found loose or unattended shall be impounded and released upon payment of a fee of fifty dollars (\$50.00) to cover the cost of impounding, hauling and storage. (Ord. 80-47; 1968 Code § 10-24.22)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 3 PERMIT REQUIREMENTS

PART 1 TEMPORARY PARK PERMITS

SECTION:

- 18-3-101: Temporary Park Permits Required
- 18-3-102: Application for Permit
- 18-3-103: Issuance of Permit
- 18-3-104: Insurance Requirements
- 18-3-105: Damage Deposit
- 18-3-106: Permit Fees
- 18-3-107: Indemnification of City
- 18-3-108: Appeal Procedures
- 18-3-109: Permit Exhibited
- 18-3-110: Effect and Liability on Permit
- 18-3-111: Revocation of Permit

18-3-101: TEMPORARY PARK PERMITS REQUIRED:

A temporary park permit shall be obtained by persons who desire to use a park or portion thereof to the exclusion of others. The Director of Parks and Recreation may list those parks or areas thereof for which he deems it necessary to issue temporary park permits in order to preserve the public peace and safety, protect the public property from injury or damage and secure to the public its common enjoyment. Use of any park or portion thereof for a public gathering, entertainment, tournament or exhibition or any other activity which can reasonably be expected to have one hundred (100) or more persons involved or in attendance or both, or reasonably can be expected to have a detrimental effect on park property or persons using such park property, or persons and property adjacent to such park, shall require a temporary permit. (Ord. 4716; 1968 Code § 10-7; 1980 Code)

18-3-102: APPLICATION FOR PERMIT: Any person desiring a temporary park permit shall apply to the Director of Parks and Recreation for such permit at least fourteen (14) days prior to the

date of the intended use on forms provided by the Director. The application shall include:

- A. Name and address of the applicant.
- B. Name and address of the person sponsoring the use.
- C. The day and hours for which the permit is desired.
- D. The park or portion thereof for which such permit is desired.
- E. How the park or portion thereof will be used.
- F. An estimate of the anticipated attendance or persons involved in the use or both.
- G. Any other information which the Director may require to make a fair determination as to whether a temporary permit should issue. (Ord. 4716; 1968 Code § 10-8)

18-3-103: ISSUANCE OF PERMIT: The Director shall issue a temporary permit when the applicant shall show and the Director shall determine:

- A. That the proposed use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
- B. That the proposed use will not unreasonably interfere or detract from the promotion of the public health, welfare and safety.
- C. That the proposed use is not reasonably anticipated to lead to or incite violence, crime, disorderly conduct or injury or damage to park property.

- D. That the proposed use will not entail extraordinary expense to the Department of Parks and Recreation or to the City.
- E. That the park or portion thereof has not been previously reserved for other use at the same date and time requested in the application. (Ord. 4716; 1968 Code § 10-9)

18-3-104: INSURANCE REQUIRED:

- A. No temporary park permit shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the City also named as insured:

Bodily Injury:	
Each person	\$300,000
Each accident	300,000

Property Damage:	
Each accident	\$ 50,000
Aggregate	100,000

Certificate or copies of the policy of such insurance shall be filed with the City Clerk and shall be subject to the City Attorney's approval as to the adequacy of protection.

- B. As a condition precedent to the issuance of any permit to sell food or wares upon park property, the Director may require products liability insurance and inspection of such food products and facilities by the El Paso County Health Department. (Ord. 4716; 1968 Code § 10-11)

18-3-105: DAMAGE DEPOSIT: As a condition precedent to the issuance of any permit, the Director may require a damage deposit to protect the City against damage to park property. Such deposit shall not exceed the reasonable expectations of the Director as to damage to City property based on the information provided by the applicant and the past experience of the Department of Parks and Recreation. (Ord. 4716; 1968 Code § 10-13)

18-3-106: PERMIT FEES: Each application for a temporary park permit shall be accompanied by the amount of the fee or charge as set forth in the Fees and Charges Schedule for use of parks or portions thereof, as promulgated by the Director and approved by the City Council. If a temporary permit is not granted, the fee shall be returned. The Director may waive this requirement of prepayment if the fee or charge is based on a per hour rate, percentage of receipts or number in attendance or all three (3), and the Director shall collect such fee or charge at a later time. The Director may require a partial payment of the charge or fee at any time. The Director, prior to the issuance of a temporary park permit, may assess additional fees to cover the expense of services that will be provided the permittee by the Department of Parks and Recreation or other agency or department of the City; however, such charges shall not exceed the amount of cost reasonably expected to be incurred by the City. (Ord. 4716; 1968 Code § 10-10)

18-3-107: INDEMNIFICATION OF CITY: The permittee shall be responsible for any and all damages to property or injury to persons arising out of the exercise of the permit, and the permittee shall indemnify and hold harmless the City and all its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property on account of the exercise of the permit or of any action or omission of the permittee thereunder, his agents or employees or on account of the failure of the permittee to maintain or to provide necessary safety devices to ensure the safety of the public. The permittee shall defend against any such suit, action or claim and pay any judgment, with costs, which may be obtained against the City, its officers, agents or employees growing out of such injury or damage. (Ord. 4716; 1968 Code § 10-12)

18-3-108: APPEAL PROCEDURES: Any applicant for a temporary park permit or any person protesting such application who is aggrieved by the decision of the Director, may appeal such action or decision in the following manner:

- A. Within ten (10) days of such decision of the Director, the appellant, his agent or attorney shall file an appeal in writing with the office of the City Manager. The appeal shall briefly state the grounds for such appeal and shall be signed by the appellant, his agent or attorney. Within five (5) days after the appeal is received, the City Manager shall approve, modify or disapprove the decision of the Director, or direct that the appeal be forwarded to the City Council.
- B. Any person aggrieved by the decision of the City Manager shall, within ten (10) days of such decision, file in writing with the City Clerk his appeal to City Council. The appeal shall briefly state the grounds upon which such appeal is based and shall be signed by such person, his agent or attorney. The City Clerk shall place such item on the agenda of the next regularly scheduled meeting of City Council occurring not less than seven (7) days after receipt of the appeal. The City Council at the time or at any subsequent meeting, may conduct a hearing de novo in which all facts and circumstances shall be heard and considered. At the conclusion of the hearing, City Council may uphold, modify, or disapprove the decision of the City Manager. (Ord. 4716; 1968 Code § 10-14)

18-3-109: PERMIT EXHIBITED: It shall be unlawful for any person to fail to produce or exhibit any permit he has received from the Director upon the request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule. (Ord. 4716; 1968 Code § 10-18)

18-3-110: EFFECT AND LIABILITY ON PERMIT:

- A. The permit holder and all persons using the park under such permit shall be bound by all park rules and regulations and all applicable ordinances. (Ord. 4716; 1968 Code § 10-15)

- B. The person to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person or property whatever by reason of the actions of the permittee. The permittee shall also be liable for the actions of any person using the park or portion thereof under the permit that has been issued. (Ord. 4716; 1968 Code § 10-16)

18-3-111: REVOCATION OF PERMIT: The Director shall have the authority to revoke a temporary permit upon finding of a violation of any rule, regulation or ordinance, or upon good cause shown. Any temporary park permit granted shall be revocable by the City Council at its pleasure in accordance with Section 72 of the Charter of the City. (Ord. 4716; 1968 Code § 10-17)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 4 TREES AND SHRUBS

PART 1 PLANTING AND GENERAL REQUIREMENTS

SECTION:

- 18-4-101: Trees in Parkings
- 18-4-102: Trees on Public Ways or Property
- 18-4-103: Planting Requirements (Rep. by Ord. 82-54)
- 18-4-104: Inspection of Trees
- 18-4-105: Planting of Approved Species (Rep. by Ord. 82-54)
- 18-4-106: Duty to Replace Trees
- 18-4-107: Duty to Trim Trees
- 18-4-108: Removal of Dead Trees (Rep. by Ord. 82-54)
- 18-4-109: Maintenance of Street Parkings
- 18-4-110: Tree Pruning for Building Movers
- 18-4-111: Use of Equipment
- 18-4-112: Tree Service License Required

18-4-101: **TREES IN PARKINGS:** The Department of Parks and Recreation is hereby authorized to furnish the necessary personnel and services for the planting of trees or replacing damaged trees in the parkings of the City, provided:

- A. Such plantings shall include at least twenty (20) trees.
- B. The request for such plantings shall be made to the Director at least one month in advance of the planting.
- C. All trees, soil, conditioning materials and protective devices shall be furnished and delivered to the place of planting by the person or persons requesting the same.

As a part of the service in planting of the trees as aforesaid, the Department shall give advice and counsel regarding the tree varieties to be selected, the physical soil conditions involved, fertilizers needed, protective devices suggested

- C) and other information concerning the selection of the tree sizes and varieties and the planting of the same. Such advice and information regarding the selection and care of trees shall be available to any person in the City so requesting the same.
- D. The planting and other services rendered by the Department shall be upon the specific condition that all watering and care, except for spraying and trimming of the trees after the planting, shall be the responsibility of the person or persons requesting the planting and the services of the Department personnel will only be for the purpose of planting the trees. No guarantee or assurance whatsoever shall be made or assumed regarding the growth or survival of the trees so planted.
- E. The planting of trees and services by the Department for such planting shall be available only during the usual working hours from April 15 through May 15; provided, however, that subject to the availability of personnel, plantings may be had at other times of the year upon request therefor. (Ord. 4716; 1968 Code § 10-25)

18-4-102: **TREES ON PUBLIC WAYS OR PROPERTY:**

- A. It shall be unlawful for any person to plant, prune, spray, remove, destroy, cut, deface or in any way injure any tree or shrub upon a public way of the City without the approval of the Director. Such approval shall not be unreasonably withheld. (1968 Code § 10-33.2)
- B. Trees, shrubs, vines and evergreens planted in public ways or parking shall be in conformity

- B) with an official list approved by the Park and Recreation Advisory Board. The Park and Recreation Advisory Board shall consider in preparing an official list the growth habits, mature size, disease resistance or other factors which minimize maintenance costs and nuisances and conform with other provisions of the ordinances of the City. Special consideration shall be given to possible interference with utility lines above such plantings. Plantings not in conformity with the approved list shall be removed by the owner or agent at the request of the Director. (Ord. 4716; Ord. 82-54; 1968 Code § 10-35)
- C. The distance between trees to be planted on public ways or parkings shall be determined by the Director so as to provide for and conform with the mature growth of the species involved. (Ord. 82-54)

18-4-103: PLANTING REQUIREMENTS: (Rep. by Ord. 82-54)

18-4-104: INSPECTION OF TREES:

- A. The Director is hereby authorized to inspect trees, shrubs, plants, vines, logs or branches and every other type of plant material on all private and public property to ascertain the condition of such plant material in relation to disease and insects detrimental to the growth, health and life of such plant material, to discover incidence of disease, and take appropriate action to preserve and restore the growth, health and life of the plant material by spraying, removing, pruning or other remedial action. With regard to such conditions which are found to exist on private property, the owner or agent of the owner of the property shall be given written notice to spray, remove, prune or take any other necessary remedial action with regard to the infested plant material within a specified period of time if in the professional judgment of the Director, such conditions are or will become injurious to other private or public plant material.¹ (Ord. 82-54)

- B. The sale or distribution of trees, vines, shrubs, scions, cuttings or grass within the corporate limits shall be in accordance with the rules, regulations, inspections and licenses of the State Department of Agriculture. (Ord. 4716; 1968 Code §§ 10-26, 10-33.1)

18-4-105: PLANTING OF APPROVED SPECIES: (Rep. by Ord. 82-54)

18-4-106: DUTY TO REPLACE TREES:

- A. In the event that a tree or shrub on City property or in a City right of way is removed, damaged or otherwise destroyed by any person, such person shall be liable to the City for the appraised value of such tree or shrub based upon the International Society of Arboriculture appraisal standards.
- B. All monies received from the above procedures as set forth in subsection A shall be deposited into a special damaged or destroyed tree and shrub fund, and shall be disbursed as set forth in Section 6-3-1001 of this Code. (Ord. 82-54)

18-4-107: DUTY TO TRIM TREES: The owner of any house, building or premises shall not permit the branches of any shade, ornamental or other tree to project over any street, avenue or sidewalk, in front of or alongside of such building or premises, lower than eight feet (8') from the surface of the sidewalk and fourteen feet (14') over the surface of the alley or street. In estimating such heights, personnel of the Department of Parks and Recreation shall take into consideration the variation of height due to normal rain, snow, sleet and foliage conditions. (Ord. 4716; Ord. 77-190; 1968 Code § 10-33.6)

18-4-108: REMOVAL OF DEAD TREES: (Rep. by Ord. 82-54)

¹ See Part 2 of this Article.

18-4-109: MAINTENANCE OF STREET PARKINGS:

- A. Definition. For the purpose of this Section, a street parking is defined as that area between the property line and the curb line.
- B. Duty of Owner to Maintain. It shall be the duty and obligation of every person in the City to keep and care for in the manner provided in this Section the street parking fronting or adjoining the premises owned by such person. Said street parking shall be maintained in an aesthetically pleasing manner in either drought tolerant plant material, grass or other plantings, stone aggregate, decorative rocks, or like materials or combination thereof with or without plantings. Vegetation shall be watered and fertilized to provide optimum growing conditions.
- C. Trees.
 - 1. Any trees planted shall be on the approved list of trees as established by the Park and Recreation Department.
 - 2. Streets designated as tree-lined shall be established and revised annually by the Park and Recreation Department. Streets so designated shall be eligible for tree planting by the City.
 - 3. The City shall provide maintenance (spraying, trimming and removal) of trees only. Prior to any maintenance, the City shall attempt to notify any contiguous property owner but the City shall not be held liable for failure to give notice.
- D. Hard Surfacing. In unusual situations where drainage or traffic problems exist, or in commercial zones or premises where public buildings or uses are involved, hard surfacing such as concrete, terrazzo, brick, flagstone, asphalt or other impervious substances may be authorized by written permit at the discretion of the Park and Recreation Department. In the event hard surfacing materials are authorized in conjunction with tree plantings, proper tree wells as determined by the Park and Recreation Department shall be constructed by the owner. (Ord. 78-142; 1968 Code §§ 10-119, 10-120)

- E. Comply with Other Provisions. Any shrubs or other plantings and the use of other materials shall comply with regulations concerning traffic safety and other provisions of this Code.
- F. Appeal. Any person aggrieved by the decision of the Director of Parks and Recreation may appeal such decision to the Park and Recreation Advisory Board and said Board may affirm, reverse or modify the decision of the Director. (Ord. 3416; 1968 Code §§ 10-121, 10-122)

18-4-110: TREE PRUNING FOR BUILDING MOVERS:

- A. If, in the process of moving any building or other object along the streets, alleys or public ways of the City, it is necessary to trim any trees, the trimming shall be done by direction of the Director and the cost of labor, material and equipment shall be paid by the person requiring the trimming. Branches over three inches (3") in diameter may not be removed unless in the opinion of the Director, removal of the limb will not impair the aesthetic value or well-being of the tree. If, in the process of moving any building, machine or other object, any tree, shrub or other planting is damaged, destroyed or removed, the replacement or repair of such shall be borne by the party moving or causing to be moved said building or other object. In the event that such work has been performed by the City, payment therefor must be made within ten (10) days after billing has been made. The Director may, in his discretion, require a bond, deposit or other security in advance of such moving to indemnify the payment of aforesaid expenses. (Ord. 4716; 1968 Code § 10-34)
- B. If, in the process of moving any building, machinery or other object along the streets, alleys or public ways of the City, the Director determines that it is necessary to remove any branch over three inches (3") in diameter or any major portion of any tree, or such branch or a portion of a tree becomes broken or damaged and must be removed as a result of the moving, the person doing or requesting the moving shall pay to the City such amounts as determined by the Director as compensation for the loss of each such branch removed plus the regular

- B) service charges for all labor and materials used in connection with the removal of the branches. All measurements to determine the size of the branches shall be made by the City. When, in the process of moving any building or other object, it is necessary to remove a tree from the streets, alleys or other public ways of the City, the value of the tree so removed shall be paid for by the person requiring its removal and the moneys received shall be used to replace as nearly as possible a planting of comparable size and value. The determination of the value of the tree shall be made by the Director and he shall consider in arriving at the value current nursery estimates including the age, variety and condition of the tree removed. (Ord. 4716; 1968 Code § 10-34.1)

18-4-111: USE OF EQUIPMENT: It shall be the duty of any person using tools on trees or shrubs to properly disinfect such tools immediately after any work done on any individual tree or shrub. Failure to so disinfect such tools shall be considered to be a misdemeanor and any person convicted of such a violation shall be punished in accordance with Section 1-2-101 of this Code. (Ord. 74-115; 1968 Code § 10-35.1)

18-4-112: TREE SERVICE LICENSE REQUIRED: A license to operate a tree service business in the City shall be obtained in accordance with Chapter 8, Article 3, Part 3, Tree Service Licenses, of this Code. (Ord. 4716; 1968 Code § 10-33)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 4 TREES AND SHRUBS

PART 2 DISEASED, NUISANCE TREES AND SHRUBS

SECTION:

- 18-4-201: Authorization
- 18-4-202: Right of Entry
- 18-4-203: Abatement; Commencement of Proceedings
- 18-4-204: The Control of Diseased, Infested, Dangerous or Nuisance Trees and Shrubs
- 18-4-205: Notice and Order
- 18-4-206: Appeals
- 18-4-207: Failure to Comply with Order to Abate
- 18-4-208: Lien Assessment
- 18-4-209: Abatement; Emergency Order
- 18-4-210: Remedies; Addition

18-4-201: **AUTHORIZATION:** The Director is hereby authorized to enforce, within the City, all provisions of this Part 2. (Ord. 82-54)

18-4-202: **RIGHT OF ENTRY:**

- A. Where the Director has reasonable cause to believe that there may exist on any premises, public or private, located within the City, any infested, diseased, dead or nuisance trees and shrubs, the Director may enter upon any such premises at any reasonable hour for the purpose of inspecting, abating, or removing or otherwise preventing any such condition which is a threat or hazard to other public or private trees and shrubs, or to the public health, safety and welfare.
- B. In the event that the owner or occupant of any premises located within the City refuses entry by the Director when such entry is sought pursuant to subsection A of this Section, the Director may make application to any Judge of the Municipal Court of the City for the issuance of an inspection warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired, and shall state facts giving rise to the

- B) belief that a condition exists at such premises which is a threat or a hazard to other trees and shrubs within the City, or to the public health, safety and welfare. Any warrant issued pursuant to such application shall command such owner or occupant to permit entry by the Director for the purpose stated therein. (Ord. 82-54)

18-4-203: **ABATEMENT; COMMENCEMENT OF PROCEEDINGS:**

- A. Whenever the Director has reasonable cause to believe that there exists on any premises located within the City any diseased, infested, dangerous or nuisance trees or shrubs which are a threat and hazard to other trees and shrubs in the City, or to the public health, safety and welfare, the Director may commence proceedings to abate such condition in the manner hereinafter provided. (Ord. 82-54)

18-4-204: **THE CONTROL OF DISEASED, INFESTED, DANGEROUS OR NUISANCE TREES AND SHRUBS:**

- A. All diseased, infested, dangerous or nuisance trees and shrubs are declared to be a threat and a hazard to trees and shrubs in the City, and may constitute a safety hazard to the public health and welfare. If such trees, shrubs or parts thereof, are found to exist, the owner of the property shall be served with a notice and order by the Director to take the necessary remedial action including spraying, pruning, and if necessary, the removal of such trees, shrubs or parts thereof, within a specified period of time.
- B. It shall be unlawful to possess or transport into or within the City all or any part of trees or shrubs infected with the *Ceratocystis ulmi* fungus; provided, however, that the wood,

- B) branches and roots of such trees or shrubs may be transported to a safe place for burial under a minimum of two feet (2') of earth within ten (10) days following discovery of such infection, or to such sites and under such conditions as are approved by the Director for processing and subsequent elimination of the disease hazard.
- C. Trees or shrubs or parts thereof of the genus *Ulmus* in a dead or dying condition that may serve as a breeding place for the smaller European elm bark beetle (*Scolytus multistriatus*) are hereby declared to be a threat and hazard to all elm trees in the City. Transportation into or within the City or possession within the City of such trees or shrubs, or parts thereof, except for immediate burial or processing in a manner approved by the Director, shall be unlawful unless the bark has been completely removed.
- D. It shall be unlawful to possess or transport into or within the City all or any part of a tree infested with the mountain pine beetle, *Dendroctonus ponderosae*; provided, however, that the wood of such tree may be transported to a safe place for burial under a minimum of two feet (2') of earth following discovery of such infestation, or to such sites and under such conditions as are approved by the Director for processing and subsequent elimination of the insect hazard.
- E. It shall be the duty of the Director to order the owner or agent of the owner of any premises in the City whereon are situated any dead trees or overhanging boughs dangerous to life, limb or property, to remove the same within a reasonable time. In the event the owner or agent of the owner fails to follow the requirements of the notice and order, then it shall be the duty of the Director to remove or destroy the trees or boughs or otherwise correct the offending condition at the expense of the owner of the affected property. (Ord. 82-54)

18-4-205: NOTICE AND ORDER:

- A. The Director shall commence abatement proceedings pursuant to this Article by issuing a notice and order to the owner or agent of the owner of any premises upon which the Director has reasonable cause to believe that a condition as described in Section 18-4-204 exists.

- B. Such notice and order shall:

1. Be in writing;
2. Be personally served whenever feasible on the owner, or agent of the owner of such premises or, when such personal service is not feasible, either posted conspicuously at the premises, or mailed to such person by certified mail, return receipt requested, to his last known address;
3. Describe with reasonable particularity the condition existing on the premises which gives rise to the issuance of the notice and order;
4. Specify a reasonable period of time within which the condition must be abated or otherwise corrected; and
5. State that an appeal is available to the Arborist Board provided written application therefor is made within five (5) days of service or posting or receipt of such notice and order. (Ord. 82-54)

18-4-206: APPEALS:

- A. Any person aggrieved by any decision or order of the Director regarding the condition of trees, shrubs or plantings on private property may appeal said decision or order to the Arborist Board, provided written application therefor is made within five (5) days of service or posting or receipt of such notice and order. A hearing concerning the propriety of such notice and order shall be granted to the owner or agent of the owner or occupant of the premises. The written application shall be filed with the Secretary of the Arborist Board.
- B. At the hearing, the appellant and the City may be represented by an attorney, may present evidence, and may cross-examine witnesses. A verbatim transcript of the hearing shall be required. The decision of the Board shall be based upon competent evidence.
- C. If the decision of the Arborist Board is not favorable to the appellant, an appeal of the decision of the Arborist Board may be made to the Courts as provided by law. Such appeal shall operate as a stay of the order unless the Director shall certify in writing that a stay would cause imminent hazard to trees and shrubs

- C) within the City, or to the public health, safety and welfare. (Ord. 82-54)

18-4-207: FAILURE TO COMPLY WITH ORDER TO ABATE:

- A. It shall be unlawful for any person to fail or refuse to comply with any order issued to him pursuant to this Article. In the event that any order issued pursuant to this Article is not complied with in such reasonable time as is specified therein, the Director, after notice to the owner or agent of the owner, may request that the condition be corrected by the removal, pruning, spraying, or other approved treatment of the affected shrub or tree. The procedures outlined in Article 1 of Chapter 7 of this Code for the collection of the costs and expenses thereof shall apply independently and in addition to the penalty provided by the Code for violation of any provision of this Chapter. (Ord. 82-54)

18-4-208: LIEN ASSESSMENT: In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the costs and expenses for the removal, spraying, pruning, correction or abatement of the condition giving rise to the issuance of the order to abate, a lien may be assessed against the property for such costs in accordance with Article 1 of Chapter 7, of the Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 82-54)

18-4-209: ABATEMENT; EMERGENCY ORDER:

- A. Whenever the Director deems that an emergency exists which requires immediate action to protect the public health, safety or welfare, or the health of trees and shrubs located within the City, he may, without prior notice or hearing, issue an order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any portion of this Article to the contrary, such order shall be effective immediately.
- B. The emergency order shall be in writing, state the location of the premises on which the

- B) condition is situated, state with reasonable specificity the condition existing thereon, and be sworn to under oath.

- C. Any person to whom such emergency order is issued shall comply therewith immediately, and it shall be unlawful to fail or refuse to so comply.
- D. In the event that the person to whom such emergency order is issued fails or refuses to immediately comply therewith, the Director may order, without prior notice to the owner, occupant or agent of the owner, that the condition be corrected by removal, spraying, pruning, or other approved treatment of the affected tree or shrub. Except as otherwise provided herein, the provisions of Sections 18-4-207 and 18-4-208 shall apply to such removal, correction or other abatement. (Ord. 82-54)

18-4-210: REMEDIES; ADDITION: The remedies provided in this Article shall be cumulative and in addition to any other remedies which may be available to the Director. Nothing contained herein shall be construed to preclude the Director from seeking such other remedies in addition to, or in lieu of, the remedies herein granted. (Ord. 82-54)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 4 TREES AND SHRUBS

PART 3 STREET TREE FEE, FUND

SECTION:

18-4-301: Fee Established
 18-4-302: Developer's Option
 18-4-303: Collection of Fee
 18-4-304: Planting Requirements

- B. Filing a letter of credit or placing into escrow such amount as to equal the fee otherwise paid; and
- C. Submitting a tree planting plan indicating the intended spacing. (Ord. 76-105; Ord. 82-54; 1968 Code § 10-33.7)

18-4-301: FEE ESTABLISHED: There is hereby established a tree planting fee which shall be set annually by resolution of the City Council. Such fee shall be required in the following zones: R through R-2, R-4, R-5 and PUD zones. The tree planting fee shall provide for the planting of one tree for each public street frontage of each lot in a single-family or two (2) family residential zone and one tree for every forty feet (40') of each public street frontage of the lots in a multi-family residential zone. All fees are to be matched by the City subject to appropriation so as to permit the planting of good quality trees and to cover costs incurred in the planting. Such City match moneys are subject to appropriation by the City Council. Waiver of any fee required may be done at the discretion of the City Forester where the lot or particular lot frontage is sufficiently forested to be in compliance with the purpose of the street tree requirement. (Ord. 80-46; Ord. 86-39; 1968 Code § 10-33.7; 1980 Code)

18-4-303: COLLECTION OF FEE: This fee shall be collected by the City upon the issuance of a building permit for the initial construction of any principal use structure on any lot platted or replatted after the effective date of this Part 3.¹ The fee shall be collected only one time per lot. It shall be placed into an escrow fund to accumulate sufficiently to provide for street tree planting projects by the City under the supervision of the City Forester. (Ord. 76-105; 1968 Code § 10-33.7)

18-4-304: PLANTING REQUIREMENTS:

Corresponding to the amount of the fee paid, one or more trees shall be planted on each lot if possible. The property owner may reject the planting of any tree by the City. No refund of the prior fee paid shall be made. The property owner, at his option may contribute prior to planting an amount in addition to the fee already paid so as to permit the planting of a larger or more expensive quality tree than otherwise intended to be planted by the City Forester.

18-4-302: DEVELOPER'S OPTION: At the option of the developer, payment of the linear foot fee may be waived in R-4, R-5, and PUD zones upon completion of all the following terms.

- A. Developer's signing an agreement to plant the required minimum number of trees of at least one inch (1") caliper, measured one foot (1') from the ground. The type shall be limited to those varieties as approved by the City Forester; and

Where the property abuts an arterial roadway, the trees shall be planted in the right of way, unless safety conditions, planting conditions or maintenance otherwise require. In the discretion of the City Forester, where existing trees, natural and artificial barriers prevent planting within the right of way or front yard setback, the trees may, with the permission of the lot owner, be planted elsewhere on the property. (Ord. 76-105; Ord. 82-54; 1968 Code § 10-33.7)

1. The effective date of this ordinance was September 14, 1976.

CHAPTER 18 PARKS AND RECREATION

ARTICLE 5 OFFENSES

PART 1 OFFENSES RELATING TO PARK PROPERTY

SECTION:

- 18-5-101: Damage to Park Property
- 18-5-102: Use of Restrooms
- 18-5-103: Construction of Buildings or Structures
- 18-5-104: Damage to Trees, Grass
- 18-5-105: Climbing on Property
- 18-5-106: Injure, Destroy Wildlife

18-5-101: DAMAGE TO PARK PROPERTY: It shall be unlawful for any unauthorized person in any manner to injure, deface, destroy, sever or remove any park property. (Ord. 4716; 1968 Code § 10-21)

18-5-102: USE OF RESTROOMS: It shall be unlawful for any person to use any restroom in any park in other than a clean and sanitary manner. No person over the age of eight (8) shall use restrooms designated for the opposite sex. Those persons eight (8) years of age or under who use the restroom of the opposite sex shall be accompanied by an adult of the proper sex. (Ord. 4716; 1968 Code § 10-21.1)

18-5-103: CONSTRUCTION OF BUILDINGS OR STRUCTURES: It shall be unlawful for any person to construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any utility into, upon or across any park except upon special written permission issued by the Director.¹ (Ord. 4716; 1968 Code § 10-21.2)

18-5-104: DAMAGE TO TREES, GRASS: It shall be unlawful for any unauthorized person

to attach any rope, wire or other contrivance to any tree or plant in any park. It shall be unlawful to dig or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area in any park. (Ord. 4716; 1968 Code § 10-21.3)

18-5-105: CLIMBING ON PROPERTY:

A. Tree Climbing. It shall be unlawful for any unauthorized person to climb any tree or walk, stand or sit upon any monument, fountain, railing, fence or upon any other property not designated or customarily used for such purpose in any park. (Ord. 4716; 1968 Code § 10-21.4)

B. Rock Climbing.

1. Definitions.

a. Rock scrambling is defined as climbing on a rock formation more than ten feet (10') above the valley floor or base of the rock formation without using proper equipment.

b. Technical climbing is defined as climbing on a rock formation in parties of two (2) or more, using proper equipment, which equipment shall, as a minimum, consist of:

(1) A perlon or laid rope specifically designed and manufactured for use in climbing or mountaineering and which meet minimum Union International Alpinist Association standards which standards, as they presently exist or may hereafter be amended, are hereby incorporated by reference; and,

(2) Carabiners to clip into the fixed protection (piton previously placed in the rock) or an assortment of artificial chock

1. See Section 12-4-507 for permit to excavate in public places for purposes of taking up any service pipe; Chapter 19, Article 5, Part 2 of this Code regulating Excavations in Public Places; and Chapter 19, Article 2, Part 2 of this Code relating to Revocable Permits. Also, see the City Charter, Article XII, § 72.

B,1) stones or pitons to adequately protect the leader's ascent, and allow the climb to be safely seconded.

2. Rock scrambling is prohibited in Garden of the Gods Park and North Cheyenne Canyon Park.

3. Technical climbing is permitted in Garden of the Gods Park and North Cheyenne Canyon Park except in areas posted by the Director as nontechnical climbing areas. (Ord. 4716; 1968 Code § 10-21.5; Ord. 80-222)

18-5-106: **INJURE, DESTROY WILDLIFE:** It shall be unlawful for any unauthorized person to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird in any park. It shall be unlawful for any unauthorized person to remove or have in his possession young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall any unauthorized person collect, remove or have in his possession, give away, sell or offer to sell, or buy, or offer to buy, or accept as a gift, a specimen alive or dead of any animal, reptile, insect or bird. (Ord. 4716) 1968 Code § 10-21.6)

*CHAPTER 18 PARKS AND RECREATION***ARTICLE 5 OFFENSES***PART 2 OFFENSES RELATING TO SANITATION***SECTION:**

18-5-201: Pollution of Park Waters

18-5-202: Refuse, Trash

18-5-203: Use of Trash Receptacles

- B. Where trash receptacles are not provided, all refuse and trash shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.¹ (Ord. 4716; 1968 Code § 10-22.1; 1980 Code)

18-5-201: POLLUTION OF PARK WATERS: It shall be unlawful for any person to throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters in any park. (Ord. 4716; 1968 Code § 10-22)

18-5-202: REFUSE, TRASH: It shall be unlawful for any person to bring in or to dump, deposit or leave any bottles, broken glass, discarded vegetation including but not limited to Christmas trees, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash in any park. No person shall place such refuse or trash in any waters in or contiguous to any park, or leave any refuse or trash anywhere on the grounds of the park. (Ord. 4716; 1968 Code § 10-22.1)

18-5-203: USE OF TRASH RECEPTACLES:

- A. Where trash receptacles are provided in any park, all refuse and trash related to park use shall be placed therein; provided, however, residential trash and construction debris shall in no event be placed in such receptacles.

1. See Chapter 10, Article 6 of this Code.

*CHAPTER 18 PARKS AND RECREATION***ARTICLE 5 OFFENSES***PART 3 OFFENSES RELATING TO ANIMALS***SECTION:**

18-5-301: Animal Defecation

18-5-302: Dogs, Domestic Animals at Large

18-5-303: Hoofed Animals

by the Director. It shall be unlawful for any person to ride or permit to be ridden a hoofed animal in any park without a permit when said permit is required by the Director. (Ord. 78-115; 1968 Code § 10-24.24)

18-5-301: ANIMAL DEFECATION: It shall be unlawful for any person to allow any animal over which he has control to defecate upon any park land without such excrement being removed by the person in control of such animal from the park and properly disposed of elsewhere. The Director may designate areas of the parks where such rule does not apply. (Ord. 4716; 1968 Code § 10-22.2)

18-5-302: DOGS, DOMESTIC ANIMALS AT LARGE: It shall be unlawful for any person to lead or allow to be loose any animal upon park premises; provided, however, that dogs may be led or carried, but not allowed loose. Dogs may be loose but under the control of their masters in those areas which are clearly marked by signs bearing the words, "Dogs permitted without leash if under control". Nothing in this Section shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be under control at all times. (Ord. 4716; 1968 Code § 10-24.9)

18-5-303: HOOFED ANIMALS:¹ It shall be unlawful for any person to ride or walk any hoofed animal as defined in Section 11-1-101 of this Code in any area in any park except on trails designated as hoofed animal trails by the Director, and except on ceremonial occasions as designated

1. See also Chapter 7, Article 5 of this Code.

CHAPTER 18 PARKS AND RECREATION

ARTICLE 5 OFFENSES

PART 4 OFFENSES RELATING TO PERSONS

SECTION:

18-5-401: Swimming; Skating
 18-5-402: Picnic Areas
 18-5-403: Fires and Fireplaces
 18-5-404: Camping Restrictions
 18-5-405: Fishing; Limitations
 18-5-406: Games, Athletic Activities
 18-5-407: Conducting Business
 18-5-408: Advertising
 18-5-409: Unlawful Entry
 18-5-410: Firearms; Possession and Discharge
 18-5-411: Alcoholic Beverages
 18-5-412: Gambling
 18-5-413: Offensive Language

18-5-401: SWIMMING; SKATING: It shall be unlawful for any person to swim, bathe or wade in any waters or waterways in or adjacent to any park, except in such waters, at such places and at such times as are authorized by the Director. Any person desiring to use such waters for other activities, except boating, shall first secure a temporary park permit from the Director. No person shall frequent any waters or places customarily designated for the purpose of swimming, bathing, skin or scuba diving, or congregate thereat when such activity is prohibited by the Director upon finding that the use of such water would be dangerous to the health, welfare and safety of the public. It shall be unlawful for any person to go out onto the ice of any waters in or adjacent to any park unless such movement is permitted by the Director. (Ord. 4716; 1968 Code § 10-24)

18-5-402: PICNIC AREAS:

- A. **Designation and Use.** It shall be unlawful for any person to picnic in any park in a place that is designated for other uses by signs or by the nature of its construction. The Department of Park and Recreation personnel shall have the authority to regulate the activities in all such areas when necessary to prevent congestion and to secure the maximum use of such facilities for the comfort and convenience of all. (1968 Code § 10-24.1)
- B. **Improper Use.** It shall be unlawful for any person to use that portion of the picnic areas in any park or of any buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded. (1968 Code § 10-24.2)
- C. **Fires, Trash and Refuse.** It shall be unlawful for any person to leave a picnic area before his fire is completely extinguished and before all refuse and trash is placed in the disposal receptacles provided. If no such trash receptacles are available, refuse and trash shall be carried away from the park area by such persons to be properly disposed of elsewhere. (Ord. 4716; 1968 Code § 10-24.5)

18-5-403: FIRES AND FIREPLACES:

- A. **Unlawful Use of Fireplaces.** It shall be unlawful for any person to build a fire in any fireplace in any park except as provided in subsection B of this Section. (Ord. 4716; Ord. 81-157; 1968 Code § 10-24.2)

- B. Fire Prohibited; Exceptions. It shall be unlawful for any person to build or attempt to build a fire in any park except in such areas and in such facilities and under such regulations as may be promulgated by the Director; provided that this prohibition shall not apply to the use of charcoal in charcoal grills for purposes of preparing a meal. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco, paper or other inflammable material, within any park area or on any highway or road contiguous thereto. (Ord. 4716; Ord. 81-157; 1968 Code § 10-24.3)

18-5-404: CAMPING RESTRICTIONS: It shall be unlawful for any unauthorized person to camp in any park or to set up a tent, shack or any other temporary shelter which could be used for such purpose. No person shall allow any movable structure or special vehicle such as a house trailer or camper trailer under his control to remain in a park after closing. (Ord. 4716; 1968 Code § 10-24.5)

18-5-405: FISHING; LIMITATIONS: It shall be unlawful for any person to fish in any of the waters of the parks except in those areas designated by the Director. In those areas designated by the Director, it shall be unlawful for any person to catch or take more than the number of fish allowed under current State Division of Wildlife limits. The possession of more than the authorized limit by a person at or in the immediate vicinity of such designated areas shall be prima facie evidence that said fish were illegally taken by such person. (Ord. 4716; 1968 Code § 10-24.17)

18-5-406: GAMES, ATHLETIC ACTIVITIES: It shall be unlawful for any unauthorized person to take part in or abet the playing of any games involving the throwing, controlling or otherwise propelling of objects such as stones, arrows, javelins or model airplanes in any park except in areas set apart for such forms of recreation. The playing of organized games such as football, baseball or horseshoes is prohibited except on the fields and courts or areas provided therefor. (Ord. 4716; 1968 Code § 10-24.7)

18-5-407: CONDUCTING BUSINESS:

- A. Soliciting; Begging. It shall be unlawful for any person to solicit alms or contributions, or to solicit patronage for any purpose upon any park premises; provided, however, charitable, educational, nonprofit or eleemosynary institutions, organizations or associations desiring to use parks for such purposes shall first secure a temporary park permit from the Director. (1968 Code § 10-24.10)
- B. Sales; Concessions. It shall be unlawful for any person to expose or offer for sale any article or thing, or for any person to station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing upon any park premises, except those persons granted a concession by the City Council or a temporary park permit by the Director. (Ord. 4716; 1968 Code § 10-24.11)

18-5-408: ADVERTISING:

- A. By Sound. It shall be unlawful for any person to announce, advertise or call to the public attention in any way any article or service for sale or for hire in any park. (1968 Code § 10-24.12)
- B. By Sign. It shall be unlawful for any person to paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever upon any park premises. No person shall erect or cause to be erected any sign whatsoever on any park premises or highway or road adjacent thereto without first having obtained a revocable permit in accordance with Chapter 19, Article 2, Part 2 of this Code. The Director is permitted to authorize signs necessary for the operation and maintenance of parks. (Ord. 4716; 1968 Code § 10-24.13)

18-5-409: UNLAWFUL ENTRY:¹ It shall be unlawful for any person to enter or

1. For hours during which the parks are closed to the public; see Section 18-2-103 of this Code; for authority of Director to close parks at any time, see Section 18-2-104 of this Code.

remain in any park area which is barricaded or posted as closed to the public, nor shall any person aid or abet the use of any area in violation of the posted notice. (Ord. 4716; 1968 Code § 10-24.14)

18-5-410: FIREARMS; POSSESSION AND DISCHARGE:

- A. Definition. For purposes of this Section firearms shall include any pistol, revolver, rifle, shotgun, air gun, gas operated gun, spring gun or B-B gun, whether loaded or unloaded.
- B. Unlawful Possession. It shall be unlawful for any person to carry or have in his possession or have under his control any firearm within any park; provided, however, that possession of firearms by members of any military company when on parade or when engaged in an official ceremony and in accordance with the command of the commanding officer, and possession of firearms by any peace officer shall not be deemed a violation hereof.
- C. Discharge of Firearm. It shall be unlawful for any person to fire or discharge any firearm within any park; provided further, that the discharge of firearms using only blank ammunition by members of any military company when on parade, or when engaged in an official ceremony, and in accordance with the command of the commanding officer, or the discharge of any firearms by a peace officer, shall not be deemed a violation hereof. (Ord. 76-74; 1968 Code § 10-24.23)

18-5-411: ALCOHOLIC BEVERAGES: It shall be unlawful for any person to bring into the park, possess or drink in any park alcoholic liquor or 3.2% beer, as those terms are defined in Chapter 9 of this Code, at any time; provided, however, that the Director may permit the importation, possession and imbibing of alcoholic liquors or 3.2% beer under the strict control and regulation of the permittee at listed pre-established locations within the parks. (Ord. 4716; Ord. 81-72; 1968 Code § 10-24.8)

18-5-412: GAMBLING: It shall be unlawful for any person to gamble, to participate or to aid and abet any games of chance in any park. For the purposes of this Section, "gambling" shall be as defined in Section 21-5-101 of this Code. (Ord. 4716; 1968 Code § 10-24.15; 1980 Code)

18-5-413: OFFENSIVE LANGUAGE: It shall be unlawful for any person to engage in loud, boisterous, threatening, abusive, insulting or indecent language which may tend to disturb the peace in any park. (Ord. 4716; 1968 Code § 10-24.16)

CHAPTER 18 PARKS AND RECREATION

ARTICLE 5 OFFENSES

PART 5 OFFENSES RELATING TO VEHICLES AND TRAFFIC

SECTION:

18-5-501: Vehicular Traffic Limited
 18-5-502: Vehicle Weight Limitations
 18-5-503: Parking Vehicles
 18-5-504: Bicycles
 18-5-505: Housemoving
 18-5-506: Funerals

- A) parking shall be in accordance with the posted directions thereof or with the instructions of any attendant who may be present. (1968 Code § 10-23.1)
- B. Improper Parking. It shall be unlawful for any person to park at any time on any road within a park so as to block vehicular traffic in either direction. (Ord. 4716; 1968 Code § 10-23.2)

18-5-501: VEHICULAR TRAFFIC LIMITED: It shall be unlawful for any person to drive any vehicle on any area except nonservice paved park roads or nonservice improved dirt park roads or in park parking areas, or such other areas as may be specifically designated as driving lanes or parking areas by the Director. (Ord. 4716; 1968 Code § 10-23)

18-5-504: BICYCLES: It shall be unlawful for any person to ride a bicycle on other than a paved or improved dirt vehicular road or path specifically designated for bicycle traffic. A bicyclist shall be permitted to walk a bicycle over any grassy area, wooded trail or on any other area reserved for pedestrian use. (Ord. 4716; 1968 Code § 10-23.3)

18-5-502: VEHICLE WEIGHT LIMITATIONS: It shall be unlawful for any person to operate any vehicle, the gross weight of which is six thousand (6,000) pounds or more, in or upon any park or portion thereof; provided, however, that this prohibition shall not be applicable to vehicles engaged in repair, maintenance or construction of the parks or the roads therein and provided further that vehicles transporting passengers are excepted from this provision. The Director may permit movement of vehicles having greater weight upon application to him for such special permission. (Ord. 4716; 1968 Code § 10-23.6)

18-5-505: HOUSEMOVING: It shall be unlawful for any person to move any building along, across or upon any park without having first obtained a permit in accordance with Section 16-3-209 of this Code. Such permit shall be issued only after approval of the Director first had and obtained. (Ord. 4716; 1968 Code § 10-23.4)

18-5-506: FUNERALS: It shall be unlawful for any funeral procession or hearse or vehicle carrying a corpse, other than an emergency vehicle, to proceed upon any park property without first having obtained a temporary park permit. (Ord. 4716; 1968 Code § 10-23.5)

18-5-503: PARKING OF VEHICLES:

- A. Parking Areas. It shall be unlawful for any person to park a vehicle in other than an established or designated parking area. Such

CHAPTER 19
PUBLIC PROPERTY AND PUBLIC WORKS

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CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 1 ADMINISTRATION

PART 1 DEPARTMENT OF PUBLIC WORKS

SECTION:

19-1-101: Definitions

19-1-102: Department Created

19-1-101: **DEFINITIONS:**¹ The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

DEPARTMENT OF PUBLIC WORKS: The Department of Public Works of the City of Colorado Springs.

DIRECTOR: The Director of the Department of Public Works or his designated representative. (1980 Code)

19-1-102: **DEPARTMENT CREATED:** The Department of Public Works is created and organized pursuant to the provisions found in Chapter 2, Article 4 of this Code. (1980 Code)

1. For definitions of general application, see Section 1-1-203 of this Code.

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 1 ADMINISTRATION

PART 2 PIKES PEAK HIGHWAY ADVISORY COMMISSION

SECTION:

- 19-1-201: Commission Created; Membership
- 19-1-202: Terms of Membership
- 19-1-203: Meetings; Organization
- 19-1-204: Compensation of Members
- 19-1-205: Duties and Functions

19-1-201: **COMMISSION CREATED; MEMBERSHIP:**

There is hereby created the Pikes Peak Highway Advisory Commission which shall consist of nine (9) members appointed by the City Council. One of the nine (9) members of the Commission shall be the President of the Pikes Peak Regional Clearing Banks Association or his designated representative, and another one of the nine (9) members of the Commission shall be the City Manager or his designated representative. As to the other seven (7) members it shall be the policy of the City Council to appoint such members to the Commission who have indicated or demonstrated an interest in and a willingness to take an active part in advising the City in the operation and maintenance of the Pikes Peak Highway. In order to ensure the most qualified and knowledgeable membership on the Commission, the Council may appoint such members who represent the following Pikes Peak area groups:

Financial institutions,
Manitou and Pikes Peak Railway,
Sightseeing tour companies,
Residents at large from the Pikes Peak area.

The City Council may consider the appointment of members who have previously served in an advisory capacity to the City in regard to the operation and maintenance of the Pikes Peak Highway. (Ord. 75-47; 1968 Code §§ 1-177, 1-178)

19-1-202: **TERMS OF MEMBERSHIP:**

Appointments to the Commission by

Council shall be made in such manner as to achieve staggered three (3) year terms. Any member of the Commission may be appointed to succeed himself. (Ord. 75-47; 1968 Code § 1-180)

19-1-203: **MEETINGS; ORGANIZATION:**

The Commission shall select its own chairman and it shall meet at such time and place as the chairman shall select. (Ord. 74-87; 1968 Code § 1-181)

19-1-204: **COMPENSATION OF MEMBERS:**

Members of the Commission shall serve without compensation, but shall be reimbursed for out-of-pocket expenses incurred in connection with their duties when authorized by resolution. (Ord. 74-87; 1968 Code, § 1-182)

19-1-205: **DUTIES AND FUNCTIONS:**

The Commission shall act in an advisory capacity to the City Council in all matters pertaining to the operation and maintenance of the Pikes Peak Highway and related facilities, and shall from time to time report to the City Council its recommendations as to policies for the operation and maintenance of said Pikes Peak Highway and related facilities. (Ord. 74-87; 1968 Code § 1-179)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 2 CITY PROPERTIES

PART 1 EQUIPMENT POOL

SECTION:

- 19-2-101: Equipment Pool Authorized
- 19-2-102: Title to Equipment
- 19-2-103: Equipment Pool Fund
- 19-2-104: Rental of Equipment

19-2-101: EQUIPMENT POOL AUTHORIZED:

The City Manager is hereby authorized to establish an equipment pool, sometimes herein called "pool", for City construction and automotive equipment, and he is further authorized to transfer and place in said pool from time to time such construction, automotive and other equipment, as he deems proper through budgetary procedures, directives or other appropriate means. Such equipment shall remain in the pool unless withdrawn by the City Manager or his designated representative, sold or otherwise disposed of. (Ord. 2710; 1968 Code § 1-80)

19-2-102: TITLE TO EQUIPMENT: Title to the equipment placed in the equipment pool shall remain in the City; provided, however, the dominion, assignment and control of said equipments, including the use, maintenance and replacement thereof, shall be vested in the City Manager or his designated representative. (Ord. 2710; 1968 Code § 1-82)

19-2-103: EQUIPMENT POOL FUND: All rentals, moneys from the sale of equipment and other revenues received from the operation of the pool shall be placed in a fund hereby authorized, to be known as Equipment Pool Fund. Inasmuch as the moneys in said fund will be derived from the operation of the pool and for the purposes as aforesaid, the said moneys shall be retained in the Fund and carried over from year to year to be used only for expenses in the operation of the pool including replacement of and acquisition of

additional equipment. Provision for the operation of the pool, appropriations and other fiscal procedures relating thereto shall be incorporated in the annual budgets and appropriation ordinances, but moneys from the Equipment Pool Fund shall not be appropriated, taken or used for purposes other than in connection with the equipment pool, nor shall said moneys be transferred to the General Fund of the City. (Ord. 2710; 1968 Code § 1-84)

19-2-104: RENTAL OF EQUIPMENT:

- A. The City Manager or his designated representative, shall be responsible for the repair, maintenance and replacement of the equipment so transferred and placed in the pool and shall have authority to charge for the use of said equipment or any part thereof, or rent the same to any City department on such hourly, monthly or annual basis as may be determined.
- B. The rental rates so established shall be approved by the City Manager or his designated representative and will be of such amount as to provide for the repair and maintenance of the equipment, fuel, administrative costs, storage, amortization and other like expenses. (Ord. 2710; 1968 Code § 1-81)
- C. In renting or authorizing the use of said equipment for the rates and charges as established, the equipment pool will not provide operators for the equipment but will designate or approve the operators from the City departments to which the equipment is rented.
- D. The City Manager or his designated representative may adopt rules and regulations for the general operation of the pool. (Ord. 2710; 1968 Code § 1-83)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 2 CITY PROPERTIES

PART 2 USE AND OCCUPANCY OF PUBLIC PROPERTY

SECTION:

- 19-2-201: Permits Required
- 19-2-202: Application for Permit
- 19-2-203: Insurance Required
- 19-2-204: Permit Fees; Renewals
- 19-2-205: Permit Term; Expiration Date
- 19-2-206: Issuance of Permit; Filing
- 19-2-207: Assignment of Permit
- 19-2-208: Indemnification
- 19-2-209: Additional Provisions or Conditions
- 19-2-210: Compliance With Laws
- 19-2-211: Permit Site
- 19-2-212: Use and Occupancy of Public Property
- 19-2-213: Subsurface Use
- 19-2-214: Surface Uses
- 19-2-215: Spaces Above Surface of Public Property
- 19-2-216: Revocation of Permits
- 19-2-217: Appeal Procedures
- 19-2-218: Obstruction on Public Ways Prohibited;
Removal

19-2-201: **PERMITS REQUIRED:** The space below the surface, upon the surface, and above the surface of public property may be used and occupied for any purpose not inconsistent with the provisions of this Part 2, other provisions of this Code, or other laws or ordinances regulating the use and occupancy of such public property; provided, however, it shall be unlawful for any person to use or occupy such space, whether below, upon or above the surface of public property, or to construct any device or structure thereupon as hereinafter set forth except by and under the authority of a revocable permit in writing first granted by the City Council or City Manager and issued by the City Clerk. (Ord. 4466; 1968 Code, § 10-143)

19-2-202: **APPLICATION FOR PERMIT:** An application for a revocable permit shall be filed with the City Clerk on a form or forms prepared by said City Clerk. (Ord. 4466; 1968 Code § 10-145)

19-2-203: **INSURANCE REQUIRED:**

- A. No revocable permit shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the City also named as insured:

Bodily Injury:	
Each person	\$300,000.00
Each accident	300,000.00

Property Damage	
Each accident	\$ 50,000.00
Aggregate	100,000.00

- B. Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the City Clerk at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance coverage shall be cause for automatic suspension of the permit until the coverage shall be reinstated. All policies shall be kept in force for the period of the permit. (Ord. 4765; 1968 Code § 10-146; 1980 Code)

19-2-204: **PERMIT FEES; RENEWALS:** The cost of each permit to cover cost of investigation and filing and not as rental for use of City property shall be ten dollars (\$10.00) for an initial revocable permit and one dollar (\$1.00) for renewal of said permit payable to the City Clerk upon issuance, and such shall not be refundable or prorable in the event of suspension or revocation. (Ord. 4765; 1968 Code § 10-148)

All revocable permits shall be renewable unless expressly declared to be nonrenewable on the face of the permit. Renewal shall be obtained from the City Clerk upon payment of the required fee if the City Clerk has not received any objections in writing concerning the revocable permit. If such objections are received, the City Manager shall review the renewal request to determine whether the public interest will be jeopardized by renewal of the permit.

If he finds that the public interest is jeopardized, he shall refuse to renew the permit, subject to appeal to the City Council hereinafter provided. (Ord. 4466; 1968 Code, § 10-150)

19-2-205: PERMIT TERM; EXPIRATION DATE:

No revocable permit shall be for a term longer than one year. All revocable permits shall expire on the last day of December of each year. Renewal of revocable permits shall be requested prior to the last day of December. If no request is made for renewal, such use, device or structure occupying public property shall be considered to have been discontinued, and if still remaining, will be removed at the expense of the permittee. An additional fee of ten dollars (\$10.00) will be charged for each late renewal. (Ord. 4466; 1968 Code, § 10-149)

19-2-206: ISSUANCE OF PERMIT; FILING:

Upon finding that the application is in proper form and that all other conditions and requirements of this Part 2 have been met, the City Manager shall grant a revocable permit. The City Clerk shall countersign and issue such permit in writing and shall keep a file of all such permits in his office. (Ord. 4466; 1968 Code, § 10-158)

19-2-207: ASSIGNMENT OF PERMIT: There shall be no assignment of any revocable permit, except by express authorization in writing by the City Manager or the City Council. Such authorization shall not be withheld if the assignee complies with all the requirements of this Part 2. (Ord. 4466; 1968 Code, § 10-151)

19-2-208: INDEMNIFICATION: The permittee shall be responsible for any and all damages to property or injury to persons arising out of the exercise of the permit or the construction or installation of any device or structure thereunto appertaining, including the maintenance thereof, and the permittee shall indemnify and save harmless the City and all its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property on account of the exercise of the permit or of any act or omission of the permittee thereunder, his agents or employees or on

account of the failure of the permittee to maintain the structure or device or to provide necessary safety devices to ensure the safety of the public; and the permittee shall defend against any such suit, action or claim and pay any judgment, with costs, which may be obtained against the City, its officers, agents or employees growing out of such injury or damage. (Ord. 4466; 1968 Code § 10-147)

19-2-209: ADDITIONAL PROVISIONS OR CONDITIONS:

The City Manager is authorized to impose on the permittee at any time additional conditions or provisions relating to the revocable permit for the use or occupancy of public property that are reasonable and necessary to protect the public health, safety and welfare. Without limiting the generality of the foregoing, the City Manager may consider the requirement of a bond or cash deposit to assure the removal of any device or structure at the expiration or in the event of revocation of the permit, or to assure the completion of the work within the required time or restore the surface of the public space to the former conditions upon completion of installation of the structure or device for which the permit is requested. (Ord. 4466; 1968 Code, § 10-159)

The City Manager is authorized to waive any of the provisions or conditions of this Article in respect to any revocable permit requested by any charitable, educational, nonprofit or eleemosynary institution, organization or association whose request for a revocable permit is for a temporary use, device or structure; provided, however, that the City Manager may not waive the insurance requirements without express approval of the City Council. (Ord. 4466; 1968 Code, § 10-160)

19-2-210: COMPLIANCE WITH LAWS: The permittee shall inform himself, and keep fully informed, and comply with all Federal and State laws, municipal laws and ordinances, the Charter of the City, and all rules and regulations, including but not by way of limitation, the various construction codes of the City as the same may be now or hereafter amended.¹ The permittee shall at all times protect and indemnify the City, its officers, agents and employees against any claim of liability arising from or based on violations of such laws, ordinances or regulations caused by any actions or omissions of the permittee arising out of the exercise of the permit. (Ord. 4466; 1968 Code, § 10-152)

1. For adoption by reference of building and constructions codes, see Chapter 16, Article 2 of this Code.

19-2-211: PERMIT SITE: The site or sites of the permitted use or occupancy or both shall have adequate safeguards to protect the public against damage or injury, and shall be kept in a clean and orderly manner. Failure to maintain a safe, clean and orderly site shall be cause for suspension of the permit pending correction of the cause of suspension or revocation if such fault be continued or of aggravated nature. (Ord. 4466; 1968 Code, § 10-153)

19-2-212: USE AND OCCUPANCY OF PUBLIC PROPERTY CLASSIFIED: The use and occupancy of public property for which revocable permits may be issued is classified in three (3) categories: First, Spaces Below the Surface of Public Property, (Section 19-2-213); second, The Surface of Public Property, (Section 19-2-214), and third, Spaces Above the Surface of Public Property, (Section 19-2-215). (Ord. 4466; 1968 Code, § 10-154)

19-2-213: SUBSURFACE USE:

- A. The space below the surface of public property may be used and occupied in connection with the use of the adjoining private property or for uses in the public interest not inconsistent with the provisions of this Part 2 or other laws and ordinances regulating the use of such property, provided, no use shall be authorized which will interfere with any existing or proposed underground utility line or installation or other lawfully existing underground installation. "Proposed" means scheduled for installation within the following twelve (12) month period.
- B. The person or persons desiring a revocable permit for the use of subsurface space shall submit with the application detailed plans including but not limited to:
 - 1. The exact location, size, dimensions, apertures, ventilation and landscaping of the underground structure or device;
 - 2. The period of excavation and space required for excavation;
 - 3. A description of protective and safety devices to be used during the excavation, including but not limited to barricades, warning lights and directional signs;

- B) 4. The legal description of adjoining land to be served by the permit, if pertinent.

The issuance of a revocable permit shall not relieve the permittee of the obligation to obtain from the department having jurisdiction all required permits and to pay the required fees therefor, all in accordance with applicable City ordinances.

- C. The permittee shall pay for the installation and construction of any structure or device below the surface of public property, and shall pay all costs and expenses attendant to the removal of such structure or device and backfilling of such space in the event the permit is rescinded.
- D. Openings from the spaces below the surface of public property shall be covered so as to prevent damage or injury. The permittee may open access to the space below the surface of public property at any time as long as there are adequate safeguards to protect the public from damage or injury, and the time of opening does not inconvenience the public. It shall be unlawful to leave open any aperture to the space below so as to endanger persons, animals or vehicles.¹ Ventilation shall be by means of grates or other devices so as not to endanger persons or property.
- E. The entire construction or installation shall be subject to the direction and approval of the City Manager.
- F. A revocable permit may be issued for the following:
 - 1. Vaults.
 - 2. Storage Tanks. Fire Department approval is required for storage of flammables.
 - 3. Equipment or material drops.
 - 4. Any other lawful similar uses or occupancies as determined by the City Manager.
- G. All permittees of subsurface uses now existing shall be required to comply with this Article upon renewal of permit; except that plans need not be submitted. (Ord. 4466; 1968 Code § 10-155)

1. See Section 21-2-106 of this Code.

19-2-214: SURFACE USES:¹

- A. The surface of public property may be used and occupied for any purpose not inconsistent with the provisions of this Part 2, Code or other laws and ordinances regulating the use of such property.
- B. The person or persons desiring revocable permits to use the surface of public property shall submit with the application detailed plans and descriptions, including but not limited to the installation, construction, size and location of the structure or device and the purpose thereof.
- C. The permittee shall pay all costs for the installation and construction of any structure on public property, and further, shall pay all costs and expenses attendant to the removal of such device, structure or use in the event the permit is rescinded.
- D. The construction or installation of a device or structure on the surface of public property shall be subject to the direction of the City Manager or his designated representative.
- E. A revocable permit may be issued for the following uses, structures or devices:
 - 1. Bicycle parking racks.
 - 2. Newspaper or other vending machines that serve the public interest in a similar manner.
 - 3. Benches.²
 - 4. Telephone booths.
 - 5. Flagpoles.
 - 6. Trees and shrubbery.
 - 7. Collection booths or kiosks (charitable).
 - 8. Curbside teller or business services.
 - 9. Recessed curbs.
 - 10. Conduct of TV and radio interviews.

E) 11. Canopies.

12. Conduct of promotion, sidewalk, or street sales and similar activities. A single permit may be issued to an association or group sponsoring such activity, provided all addresses or locations represented by the group shall appear on the application and the permit.

13. Any other lawful similar uses or occupancies as determined by the City Manager.

F. The following conditions as well as the other conditions in this Article, shall apply to each of the above-listed uses, structures and devices:

1. No device or structure shall be so located or used so as to:

a. Interrupt the normal flow of vehicular or pedestrian traffic;

b. Interfere with the public's normal use of the public property upon which the structure, device or use is permitted, such as the overhang of diagonally parked automobiles or the door-opening radius of parallel parked automobiles;

c. Interfere with any other device or structure lawfully existing thereon, such as parking meters, water meters, curb cuts, bus stops, etc.

The device, structure or use shall not occupy more than one-fifth ($\frac{1}{5}$) of the width of any paved sidewalk. Whenever possible, devices and structures shall be installed on unpaved or unused areas of sidewalks or in connection with other devices or structures already installed which break the flow of pedestrian traffic.

2. Any device or structure shall be installed in such a manner so as to prevent it from being dislodged by any natural force such as wind or any manmade force such as an act of vandalism.

1. The most recently adopted edition of the Uniform Building Code permits the temporary use of public property during construction or demolition. No revocable permits are required for such activities unless there is a deviation from the Uniform Building Code, as amended and modified.

2. See Section 14-9-207 of this Code for regulations concerning benches at bus stops.

- F) 3. Devices and structures permitted shall be so constructed as to reduce so far as is feasible sharp edges or protrusions that could cause injury to persons or damage to property. Devices and structures shall be easily visible and recognizable with regard to the available light from street lighting and light emanating from adjoining property during periods of darkness.
4. Devices and structures shall be installed so as to eliminate the collection of litter under and upon the same, insofar as possible, and to facilitate cleaning of the adjacent area of litter and snow.
- G. All permittees with uses, devices or structures now existing shall be required to comply with the provisions of this Article; except for the submission of plans. (Ord. 4466; Ord. 81-244; 1968 Code, § 10-156)

19-2-215: SPACES ABOVE SURFACE OF PUBLIC PROPERTY:

- A. The space above the surface of public property may be used and occupied in connection with the use of adjoining private property or for uses in the public interest not inconsistent with the provisions of this Article, this Code or other laws and ordinances regulating the use of such property.¹
- B. The person or persons desiring a revocable permit shall submit with the application detailed plans including but not limited to the exact location, size, dimensions and access to the aboveground device or structure.
- C. The permittee shall pay for the construction and installation of any device or structure above the surface of public property, and further, shall pay all costs attendant on removing the device or structure in the event the permit is rescinded.
- D. The construction or installation of the device or structure above the surface of public property shall be subject to the direction of the City Manager or his designated representative.
- E. A revocable permit may be issued for the following uses, structures or devices:

- E) 1. Any other lawful similar uses or occupancy to those permitted by the Uniform Building Code and Uniform Sign Code as determined by the City Manager, provided no device or structure of a permanent nature shall extend beyond the curb line regardless of the height of the structure, and provided further, no such use, structure or device shall interfere with any existing or proposed overhead utility line or other lawfully existing use or structure. "Proposed" means scheduled for installation within the following twelve (12) month period.
- F. All permittees with devices, structures or uses now existing shall be required to comply with this Article upon renewal of permit; provided, however, that plans need not be submitted. (1968 Code, § 10-157)

19-2-216: REVOCATION OF PERMITS: Any revocable permit may be revoked by the City Council at its pleasure in accordance with Section 72 of the City Charter. The City Manager is hereby authorized to revoke any revocable permit if such action is deemed by him to be necessary to protect the public safety, necessity or convenience in the use of public property. He shall give notice in writing to the permittee at least fourteen (14) days before the effective date of revocation in order to allow permittee to appeal to City Council in accordance with Section 19-2-217 of this Part 2. Such notice requirement shall not limit the power of the City Manager to summarily revoke any revocable permit if there is a present existing or imminent danger to the public health, safety or welfare. (Ord. 4466; 1968 Code, § 10-144)

19-2-217: APPEAL PROCEDURES: Any applicant for a revocable permit or any person protesting such application who is aggrieved by the action or decision of the City Manager may appeal such action or decision to the City Council. The appeal shall be in writing, shall be executed by the appellant, his agent or attorney, in duplicate, shall state and specify briefly the grounds for the appeal, and shall be filed with the City Clerk within ten (10) days after the action or decision appealed. The City Council shall then give public notice of the appeal and hold a public hearing. The hearing shall be de novo and all facts and circumstances shall be heard and considered. At the conclusion of the hearing

1. The Uniform Building Code and the Uniform Sign Code adopted by reference by this Code set forth permitted structures, appendages or signs and regulations thereof that may permanently occupy the space above the surface of public property. No revocable permits are required for such structures, appendages or signs unless there is to be a deviation from the Uniform Building Code or Uniform Sign Code. See Sections 16-2-102 and 16-2-302 of this Code.

the Council may deny or revoke the permit, order changes in the conditions and provisions of the permit, or order the issuance, continuance or renewal of the permit. (Ord. 4466; 1968 Code, § 10-161)

**19-2-218: OBSTRUCTION ON PUBLIC WAYS
PROHIBITED; REMOVAL:**

- A. It shall be unlawful for any person to place upon or construct upon any sidewalk, street, alley or other public way or upon any natural watercourse or improved drainway any encumbrance or obstruction, such as but not limited to, earthfill, building materials, fences, platforms, stairs, signs, signposts, railings or barricades (hereafter "offending object"), except under the terms of a revocable permit as provided in this Article.
- B. The City Manager shall notify in writing the owner, agent or person responsible for the placing or construction of such offending object to remove the same within a reasonable time and restore the public way to its former state. If the offending object has not been removed at the expiration of the time stated in the notice, the City Manager shall cause the same to be removed and stored and all necessary correction work performed to restore the public way or watercourse to its former state, all at the expense of the owner.
- C. If within thirty (30) days the offending object has not been reclaimed and all costs of removal and restoration of the public way paid, the same shall be presumed to have been abandoned and the City Manager may declare the same to be City property. Thereafter, the same may be used or disposed of in the same manner as other City property.¹ (1980 Code)

1. See Section 6-1-205 of this Code for method of disposition of City property.

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 1 CEMETERY ADVISORY BOARD

SECTION:

- 19-3-101: Board Created; Membership
- 19-3-102: Terms of Membership
- 19-3-103: Meetings; Organization
- 19-3-104: Duties and Functions

within the minutes shall be transmitted to the City Council by the City Manager. The Board shall also file with the City Manager on or before January 1 of each year a written annual report of the activities and recommendations of the Board for the previous twelve (12) months. (Ord. 75-121; 1968 Code § 1-185)

19-3-101: BOARD CREATED; MEMBERSHIP:

There is hereby created the Cemetery Advisory Board which shall consist of seven (7) members appointed by the City Council. It shall be the policy of the City Council to appoint such members to the Board who have indicated or demonstrated an interest in and a willingness to take an active part in advising the City in the operation and maintenance of the City-owned cemeteries. (Ord. 75-121; 1968 Code §§ 1-183, 1-184)

19-3-102: TERMS OF MEMBERSHIP:

Appointments to the Board shall be made in such manner as to achieve staggered three (3) year terms. Any member of the Board may be appointed to succeed himself. (Ord. 75-121; 1968 Code § 1-186)

19-3-103: MEETINGS; ORGANIZATION:

The Board shall select its own chairman, and it shall meet at such time and place as the chairman shall select. (Ord. 75-121; 1968 Code § 1-187)

19-3-104: DUTIES AND FUNCTIONS:

The Board shall act in an advisory capacity to the City Council and the City Manager in all fiscal policies, including fees and charges, the operation, use, maintenance, improvements, expansion and other matters relating to the City-owned cemeteries. The Board shall file with the City Manager within ten (10) days after each meeting a copy of the minutes of said meeting. Any and all recommendations included

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 2 DEFINITIONS

SECTION:

19-3-201: Definitions

19-3-201: DEFINITIONS:¹ The following terms as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

BLOCK: Portion of a cemetery which is usually defined by roads or other boundaries around its perimeter and which is divided into lots and spaces.

BURIAL: The permanent disposition of human remains by burial, entombment or inurnment.

BURIAL RIGHT; INTERMENT RIGHT: The right to inter in a burial space; this right is not title to the land, but merely a right to be buried in a described space.

BURIAL SPACE: A grave space, crypt space or niche, including, if available, double depth spaces for burial of two (2) or more coffins with one on top of the other, used or intended to be used for the burial of human remains.

CEMETERY; CEMETERIES: A place of burial for earth interments, mausoleum for crypt entombments, a columbarium for cinerary interments, or a combination of more than one thereof.

CERTIFICATE OF OWNERSHIP: A written document issued by the City to a purchaser of a grave space, which document evidences ownership of a right to be buried in a specific grave space.

CITY CEMETERIES: Cemeteries owned and operated by the City; they are Fairview and Evergreen Cemeteries.²

CITY CEMETERIES SUPERINTENDENT; SUPERINTENDENT: That position, regardless of any

other title, which is in effect in control and supervision of the cemeteries.

FAMILY: Those persons residing in one household or descended from a common ancestor.

GRAVE SPACE: A space of ground sufficient in size for burial of the remains of one adult or infant, as specified by cemetery plat. See also, burial space.

HOLIDAYS: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving, Christmas.

IMMEDIATE FAMILY: Husband and wife and their children, whether living together or not.

INTERMENT: The permanent disposition of human remains by burial, entombment or inurnment. See also burial.

LOTS: A unit of purchase which may contain either four (4), six (6) or eight (8) burial spaces as specified for the particular block.

MARKER: One-piece stones which are customarily used to mark individual graves.

MAUSOLEUM and SARCOPHAGUS: Structures for aboveground interment.

MEMORIAL: A generic term which includes a marker, monument, mausoleum, crypt, urn, niche plate or other physical object used to identify the occupant of the grave space.

MONOLITH: One-piece memorials of a particular design, usually a tall stone of narrow width and depth.

MONUMENT: Memorials of more than one piece.

NEAREST OF KIN: Relatives of deceased as determined according to the Colorado laws of intestacy. (Ord. 77-110; 1968 Code § 12-135)

1. For definitions of general application, see Section 1-1-203 of this Code.

2. See Section 19-3-301 of this Code.

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 3 GENERAL PROVISIONS

SECTION:

- 19-3-301: City Cemeteries Designated
- 19-3-302: Administration and Supervision of Cemetery
- 19-3-303: Rules and Regulations Governing Cemeteries
- 19-3-304: Ownership
- 19-3-305: Control of Work
- 19-3-306: Rights of City Reserved
- 19-3-307: Burial in Unauthorized Place Forbidden

19-3-301: CITY CEMETERIES DESIGNATED: "Evergreen Cemetery" and "Fairview Cemetery" have been and shall continue to be designated City cemeteries. These cemeteries, and all additions that may hereafter be made thereto respectively, are hereby set apart and shall be maintained forever for the burial of the dead. (Ord. 77-110; 1968 Code § 12-136)

19-3-302: ADMINISTRATION AND SUPERVISION OF CEMETERY: The administration and supervision of the City cemeteries shall be by direction of the Director of Public Works¹ through a City Cemeteries Superintendent appointed by him, who will employ such other persons as may be necessary for the care and maintenance of the City-owned cemeteries. (Ord. 77-110; 1968 Code § 12-137)

19-3-303: RULES AND REGULATIONS GOVERNING CEMETERIES: With the advice of the Cemetery Advisory Board,² the City Council shall adopt rules and regulations consistent with the provisions of this Article governing the cemeteries, which rules and regulations shall be on file and available for public examination in the office of the City Clerk. (Ord. 77-110; 1968 Code § 12-138)

19-3-304: OWNERSHIP: The City retains to itself, for the benefit of all burial space owners,

full and complete supervision, control and management of the lands, buildings, improvements, roads, walks, utilities, development, books and records and the full and complete authority, rights and privileges to make, change, administer and enforce all ordinances, rules, regulations and restrictions. Sale by the City of a burial right does not transfer real estate title to the purchaser. (Ord. 77-110; 1968 Code § 12-139)

19-3-305: CONTROL OF WORK: All grading, landscape work and improvements of any kind, and all care of burial spaces shall be done, and all trees, shrubs and herbage of any kind shall be planted, trimmed, cut or removed, and all openings and closings of graves, and all interments, disinterments and removals shall be made only under the supervision of the Superintendent of the Cemeteries. (Ord. 77-110; 1968 Code § 12-140)

19-3-306: RIGHTS OF CITY RESERVED:

A. Right to Replat. The right to enlarge, replat, reduce or change the boundaries or grading of the cemeteries or of any section or sections or any parkways therein from time to time, including the right to modify or change the location of, or remove, or regrade roads, drives, walks, parkways, gardens or any part thereof, is hereby expressly reserved to the City. (Ord. 77-110; 1968 Code § 12-141)

B. Right to Install and Change Drainage. The right to lay, maintain and operate, or to alter or change pipe lines, or gutters for irrigation systems, drainage, lakes or any other water courses in any part of the cemeteries, is expressly reserved to the City. (Ord. 77-110; 1968 Code § 12-142)

19-3-307: BURIAL IN UNAUTHORIZED PLACE FORBIDDEN: It shall be unlawful for any person to bury or cause or permit to be buried within the corporate limits of the City the body of any dead person, except in such cemeteries or burial grounds

1. See Section 2-4-101 of this Code.

2. See Article 3, Part 1 of this Chapter.

as may hereafter be authorized and designated by
the City Council. (Ord. 487; 1968 Code § 11-87)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 4 SALE OF LOTS AND SPACES

SECTION:

- 19-3-401: Sale of Lots, Certificates of Ownership
- 19-3-402: Records
- 19-3-403: Funds, Disposition
- 19-3-404: Installment Purchases
- 19-3-405: Perpetual Care
- 19-3-406: Property Rights of Burial Space Owners
- 19-3-407: Transfer of Ownership
- 19-3-408: Abandoned Burial Spaces

19-3-401: SALE OF LOTS, CERTIFICATES OF OWNERSHIP: The City Clerk shall keep an accurate record of all burial spaces in the cemeteries. The Superintendent of Cemeteries shall sell burial spaces at such price or prices as may be directed by the City Council and contained in the rules and regulations for the City cemeteries. The City Clerk shall issue a certificate of ownership to the purchaser of each burial space, which certificate shall contain a description of the burial space, purchase price and the name and address of the space owner. The certificate shall state that it represents only a right to be buried and in no way conveys a title to the real estate, and shall state:

- A. The ownership of that right is not transferable without the approval of the City Clerk and the reissuance of a new certificate of ownership to the new owner; except that transfer of ownership may be effected by will or intestacy as provided for in Section 19-3-407 hereof.
- B. Any transfer of ownership by will or applicable laws of intestacy shall be reported to the City Clerk.
- C. All changes in address of the owner shall be reported to the City Clerk.
- D. A portion of the purchase price, such portion to be specified, shall be deposited into a trust fund and held as a permanent fund with the income of the fund to be devoted to the perpetual care

- D) and keeping of the burial space so endowed, except for spaces in areas platted for the burial of poor persons.

The certificate shall be signed with a facsimile of the Mayor's signature and attested by the signature of the Clerk under the Seal of the City. (Ord. 77-110; 1968 Code § 12-143)

19-3-402: RECORDS: Records of the Clerk, other than the certificate as provided for in Section 19-3-401 above, shall show the date of purchase, the name of the purchaser, the description designating the burial spaces purchased, and the purchase price. Indexing shall permit determination of location of the burial space by location as well as by owner's name.

- A. Certificates of purchase, as authorized by Ordinance 1284, are evidence of ownership of a right to be buried in spaces listed on the certificate of purchase. After the effective date¹ of this Chapter, certificates of purchase shall not be issued by the City. In lieu thereof, certificates of ownership shall be issued.
- B. Owners permits (aka "Blue Slips") have been given to owners of certificates of purchase for their use in authorizing others to be buried in a particular space. After the effective date of this Chapter, no owners' permits shall be given. In lieu of owners' permits, a consent to bury shall be in accordance with Section 19-3-406C of this Part 4.
- C. Certificates of purchase existing prior to the effective date of this Chapter shall remain valid, and all existing (i.e., dated prior to the effective date of this Chapter) owners' permits (blue slips) shall be deemed to be valid as mere assignments, and not as transfers of title of the grave spaces enumerated thereon. No owners' permits shall be used by the owner of a certificate of ownership (as distinguished from a certificate of purchase) to transfer or assign a burial right.

1. Ordinance 77-110, from which this Section derives, became effective August 9, 1977.

- D. The owner of a certificate of purchase seeking to sell or give outright one or more spaces to another shall apply for and obtain a certificate of ownership from the City Clerk in the name of the other person. Upon submission of an application for a transfer of the burial space, the certificate of purchase along with the endowment contract, if any, shall be returned to the City Clerk. If any spaces enumerated on the certificate of purchase are to be retained by the applicant, then certificates of ownership shall be issued for each retained space in the name of the owner.

1. Upon application for the above exchange of a certificate of purchase for appropriate certificates of ownership, the applicant shall provide the following information:

- a. The grave spaces he owns;
- b. The spaces then used, if any;
- c. The number of owners' permits he has given to others, for which space, and to whom given;
- d. The number of owners' permits which have been returned to him and voided;
- e. Which owners' permits have been returned to him for the Clerk's reissuance in the form of a certificate of ownership for the particular space;
- f. Which owners' permits are still outstanding;
- g. Which spaces are now endowed; and, stating further,
- h. That the owner truthfully believes he owns and fully controls the spaces for which he is applying for certificates of ownership and that he does indemnify the City as to all costs should any person(s) other than the transferee named in the owner's application subsequently present an owners' permit or certificate of purchase for the same space(s).

2. Upon submission of a complete application, the City Clerk shall investigate and determine:

- a. If any spaces for which certificates of ownership are sought are filled;

- D,2) b. If any owners' permits for applicant's spaces are held by persons or firms other than the certificate of purchase holder.

The Clerk shall then issue the certificates of ownership to the persons indicated by the owner; however, any title impairment affecting the ownership of the burial right shall be noted upon the respective certificate of ownership by the Clerk. If any space is unendowed (except in areas platted for burial of poor persons), then the endowment then payable shall be paid prior to the reissuance of the new certificate of ownership. A record containing the application, the investigation results, and a copy of the certificate of ownership along with the notations, if any, thereon shall be retained by the Clerk.

- E. The City may purchase back any unused certificate of purchase or any unused portion thereof. The City Clerk shall purchase only those spaces for which title is reasonably clear. The Clerk shall require an application as provided for in subsection D of this Section. Upon submission of a completed application to the Clerk and upon completion of the Clerk's own investigation, the Clerk shall purchase the certificate of purchase or any number of spaces identified on the certificate, except that the Clerk shall not purchase spaces already filled, nor spaces where an apparently valid owners' permit remains outstanding. The purchase price shall be the original purchase price (exclusive of the endowment fee) of the grave space. Interest at the rate of three percent (3%) per annum, compounded annually since date of purchase shall be added. The buyback price to be paid by the City shall not exceed the City Council established selling price for new spaces, less the amount contributed to endowment.
- F. Existing owners' permits (blue slips) which have been issued by owners of certificates of purchase and which are for burial spaces not used shall remain valid as assignments of the right to burial in the space designated.
- G. Certificate of purchase and ownership holders may consent to the burial of any deceased person. Such consent shall be given in accordance with Section 19-3-406C of this Code. (Ord. 77-110; 1968 Code § 12-143)

19-3-403: FUNDS, DISPOSITION: All moneys except moneys received for perpetual care endowments in accordance with Section 19-3-405B received from the sale of spaces in said cemeteries shall be held by the City Treasurer and expended as shall be directed by the Council for the maintenance, improvement, beautification and enlargement of said cemeteries and for no other purpose. (Ord. 77-110; 1968 Code § 12-144)

19-3-404: INSTALLMENT PURCHASES: The purchase prices herein specified and the endowments for the lot(s) or space(s) purchased thereunder may be paid in installments provided that the purchaser shall enter into a written contract wherein it is agreed that the number of installments shall not exceed four (4) nor extend over a period of more than one year; that no interest shall be added by the City to the purchase price; that at least eight and one-half percent (8½%) of the installment purchase price shall be paid in cash at the time of the execution of said contract, and failure to pay any installment for a period of six (6) months shall terminate said contract, together with any legal interest of the purchaser therein, and invest all payments previously made thereunder absolutely in the City. Notice of termination for failure of payments shall be given by the City to the purchaser's last known address. Until payment is completed in full, no certificate of ownership shall be issued to the lot(s) or space(s) described in said contract, nor shall any burial be allowed on such lot(s) or space(s). (Ord. 77-110; 1968 Code § 12-145)

19-3-405: PERPETUAL CARE:

A. Charge for Perpetual Endowment. All grave spaces in the City cemeteries, except in areas platted for burial of poor persons, conveyed after the passage of this Section shall be perpetually cared for by the City.

1. An amount comprising fifteen percent (15%) of the sales price of any burial space, crypt or niche shall be deposited in an endowment trust fund within thirty (30) days after receipt of the purchase price.

2. Except for areas platted for the burial of poor persons, lot owners holding certificates of purchase and without a certificate of endowment, pursuant to Ordinance 1284, shall

A,2) purchase such perpetual care prior to burial in the particular, unendowed space. The price of such endowment shall be established by regulation. The purchase of such endowment shall be evidenced by a certificate of endowment as provided by regulation.

B. Perpetual Care Funds. The City Treasurer shall place the money derived from perpetual care endowments in distinct irrevocable endowment trust funds with each endowment fund designated for the perpetual care of burial spaces in a particular cemetery. The full faith, credit and resources of the City are hereby irrevocably pledged for the proper, full and faithful preservation and application of said funds. All moneys at any time in said funds shall be invested and kept invested in such securities as the Council may by resolution direct or approve. All moneys and securities at any time in said funds shall be under the joint control and custody of the City Treasurer, the City Manager and the City Controller with the consent of the City Council. The interest derived from the endowment shall be used in caring for the burial spaces thus endowed, and for preserving and keeping the cemetery from becoming unkempt and places of reproach and desolation. Under no circumstances shall the principal be used. (Ord. 77-110; 1968 Code § 12-146)

19-3-406: PROPERTY RIGHTS OF BURIAL SPACE OWNERS:

A. Interment Rights. All lots, grave spaces and burial spaces conveyed heretofore or hereafter shall be considered as a grant of a right by the City to the grantee for the purpose of burial, and shall be presumed to be the sole and separate burial right of the person named as grantee in the instrument of conveyance subject to this Article, and its rules, regulations and restrictions; provided, however, that a husband and wife shall have a vested right of interment of his or her body in any burial plot or interment spaces owned by his or her spouse, which right shall continue as long as he or she shall remain the husband or wife of the plot owner or shall be his or her wife or husband at the time of such plot owner's demise, and no conveyance or other action shall be necessary to confer the right of interment upon the owner's spouse; provided, however, that a final

- A) decree of divorce between them shall terminate such vested right of interment unless it shall be otherwise provided by such decree of divorce.
- B. Joint Tenants. In all conveyances to two (2) or more persons as joint tenants, each shall have a vested right to interment of his or her remains in the space so conveyed. Upon the death of a joint tenant, right and title in and to the burial space so held immediately vests in the surviving joint tenant.
- C. Consent to Burial. Upon the death of a relative or nonrelative, the owner of a certificate of ownership may consent to the burial of that deceased person in the space enumerated on the owner's certificate. The consent shall be evidenced on serialized forms to be known as a "consent to bury", which form shall be dated and available only at the City Clerk's or Cemetery Superintendent's office. A death certificate shall be presented, if practical, at the time such consent is given to the Clerk or Superintendent. The giving of such consent shall not be a transfer of ownership; however, once burial occurs, the permission of a known nearest of kin or legal representative of the deceased shall be required before the body may be disinterred for removal to another location. Upon disinterment of the body, the space shall remain in the ownership of the certificate of ownership holder. The Clerk shall maintain records of all consents to bury. Where no burial takes place within a reasonable time after the date of the consent form, normally fifteen (15) days, the Clerk shall invalidate the form and advise the certificate of ownership owner at his address as shown in the Clerk's cemetery records.
- D. Right of Descent. Upon the death of the owner any unused burial spaces shall pass as provided in the owner's last will and testament to the owner's beneficiaries. Any unused burial spaces not effectively disposed of by the owner's last will and testament or otherwise pass to his heirs as prescribed by the Colorado Probate Code except for the vested right of interment of a spouse as provided in Section 19-3-406A.
- E. Official Records. The official records of burial space owners shall be maintained by the City Clerk's office, and each burial space owner

- E) shall be registered by name and address. Such registration shall be the final governing record in determination of burial space ownership.
- F. No Transfer Without Consent. No burial spaces shall be transferable except with the consent, which shall not be withheld unreasonably, of the City Clerk or as provided by law.
- G. Change of Address. It shall be the duty of each and every burial space owner to keep the City Clerk fully informed as to his or her mailing address, and to notify said City Clerk as to any changes thereof. Notice sent to any burial space owner at the last registered address on file in the office of the City Clerk shall be considered sufficient and proper legal notice.
- H. Right to Ingress and Egress Reserved. The City reserves to itself, and to those lawfully within the cemetery, a perpetual right to enter and to leave over any burial space for passage to and from other spaces.
- I. No Right Granted in Alleyways. No easement or right of interment is granted to any burial space owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery grounds or buildings as long as the cemetery devotes same to that purpose. (Ord. 77-110; 1968 Code § 12-147)

19-3-407: **TRANSFER OF OWNERSHIP:**

- A. Method of Transfer. The transfer of ownership or right or any interest in any burial space shall be made only on forms provided by the City Clerk.
- B. Consent and Approval. No transfer of any burial space shall be valid without the consent in writing of the City Clerk first had and endorsed upon such a transfer and thereafter recorded on the books of the City Clerk; however, such consent shall not be unreasonably withheld.
- C. Time of Recognition. A transfer of a certificate of ownership in order to be valid must be proper on its face and it must also be delivered to the grantee or some third person during the lifetime of the grantor with full intent to divest said grantor of his interest and it must be

- C) presented to, approved by, and transferred upon the record of the City Clerk during the lifetime of such grantor; provided, however, that a transfer may also be made in a last will and testament or by the applicable laws of intestacy.
- D. Indebtedness. The City Clerk may at his discretion refuse to consent to a transfer of any burial space so long as there is any indebtedness due thereon by the registered owner thereof.
- E. Care and Maintenance Must be Provided. Except for areas designated for the burial of poor persons, no transfer of any burial space or interment right therein shall be approved and registered upon the books of the City Clerk nor shall interments therein be permitted until provision shall have been made for care and maintenance of such space by payment of the endowment amount specified in the rules and regulations for the City cemeteries. This provision shall not apply to burial spaces conveyed by the City for which perpetual care and endowment has been already provided.
- F. Transfer Charges. All transfers of ownership in any burial space shall be subject to a charge fixed from time to time by the rules and regulations for the City cemeteries, which charge must be paid when the transfer is received for filing by the City Clerk. (Ord. 77-110; 1968 Code § 12-148)

19-3-408: ABANDONED BURIAL SPACES:

- A. Reversion. The ownership or right in or to any unoccupied cemetery burial space shall upon abandonment revert to the City.
- B. Presumption. Failure to inter in any burial spaces after one hundred (100) years from purchase, transfer or interment in adjacent spaces commonly owned, whichever is later in time, shall create and establish a presumption that the same has been abandoned; except that this presumption shall not apply when a letter of intent is filed by the owner or heir in title with the City Clerk stating that he intends to keep specified spaces vacant.
- C. Notice Required. Abandonment shall not be deemed complete unless the registered owners or their heirs or assigns shall be notified in writing, mailed to the last known or registered address, by the City Clerk. In the event that the address of the owner or his heirs cannot be ascertained, then notice of such abandonment shall be published five (5) times in the City's official newspaper at least once a week.
- D. Failure to Reply. If the registered owner or his heirs or assigns fail to inform the City Clerk within sixty (60) days after receipt of notice of abandonment or after final publication of such notice of an intention to retain the burial spaces remaining, then abandonment shall become final and the City may thereafter sell, transfer and convey title thereto. The funds derived from any sale of an abandoned space shall be deposited in, and shall become a part of, the endowment fund. (Ord. 77-110; 1968 Code § 12-149)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 5 INTERMENTS

SECTION:

- 19-3-501: Compliance With Applicable Laws
- 19-3-502: Application for Interment
- 19-3-503: Time and Notice of Interments
- 19-3-504: Conditions for Interment
- 19-3-505: Liability of City
- 19-3-506: Equipment Used
- 19-3-507: Funeral Processions
- 19-3-508: Charges for Graves
- 19-3-509: Grave Vaults or Boxes
- 19-3-510: Caskets Not to be Opened
- 19-3-511: Location of Interment Space
- 19-3-512: Removal of Bodies Prior to Interment

19-3-501: COMPLIANCE WITH APPLICABLE

LAWS: Besides being subject to this Chapter and the rules and regulations for the City cemeteries, all interments, disinterments and removals are subject to the orders and laws of the properly constituted authorities of the City and State. (Ord. 77-110; 1968 Code § 12-150)

19-3-502: APPLICATION FOR INTERMENT:

A. Authorization for Interment.

1. The City reserves the right to refuse burial in any burial space for any purpose unless written authorization pursuant to paragraph 2 of this subsection by the burial space owner of record is made out on blanks provided by the City Clerk. (Ord. 77-110; 1968 Code § 12-152)

2. The City reserves the right to make an interment of any member of the immediate family or of any one of joint burial space owners upon only one written authorization by a member of the immediate family. (Ord. 77-110; 1968 Code § 12-154)

B. Telegram and Telephone Authorization. Telegram authorization for immediate burial may be permitted by the City Clerk.

B) However, the City shall not be held responsible for any order given by telephone or for any mistake occurring from the want of precise and proper telephonic instructions as to the particular space, size and location of a burial space where interment is desired. Any changes, adjustments or corrections necessitated by such mistakes shall be at the expense of the burial space owner or his agent. (Ord. 77-110; 1968 Code §§ 12-152, 12-153)

C. Burial Permits Issued. The Bureau of Vital Statistics¹ shall issue a burial permit addressed to the Cemetery Superintendent who will enter information describing the burial space for the interment. (Ord. 77-110; 1968 Code § 12-152)

19-3-503: TIME AND NOTICE OF INTERMENTS:

The right is reserved by the City to insist upon at least ten (10) working hours' notice prior to any cremation or interment, and at least one week's notice prior to any disinterment or removal. Any exceptions must be approved by the Cemetery Superintendent. (Ord. 77-110; 1968 Code § 12-151)

All interments, disinterments and removals must be made at the time arranged for in advance, but no interments, disinterments, removals, cremation or interment service shall be permitted on the day before Memorial Day. (Ord. 77-110; 1968 Code §§ 12-155, 12-156)

19-3-504: CONDITIONS FOR INTERMENT:

A. No Interment Unless Property Paid For. No interment shall be permitted or memorial placed in or on any property not fully paid for. A promissory note or contract for purchase shall not be considered as payment, and no rights shall be acquired by the burial space purchaser of said interment or interments until such property is fully paid for in cash. The City Clerk at his discretion may accept from the legal

1. See C.R.S. 1973, Chapter 25, Article 2. The "local registrar" for vital statistics appears to be the El Paso County Health Department.

- A) representative of a deceased a bond or other surety or guaranty of payment. (Ord. 77-110; 1968 Code § 12-160)
- B. More Than One Body. Not more than one body, or the remains of more than one body, shall be interred in one grave, vault, crypt or niche unless such grave, vault, crypt or niche is in a portion of the cemetery designated for multiple burial and the burial space has been purchased with the written agreement that more than one body, or the remains of more than one body, may be interred. However, with the consent of the Superintendent, an infant may be buried in the grave space with the parent or cremated remains may be placed in the same grave with regular burial or other cremated remains; provided, proper identification is made of such interment or interments on one crypt, niche, memorial or marker. (Ord. 77-110; 1968 Code § 12-161)

19-3-505: LIABILITY OF CITY:

- A. Delay from Protest. The City shall be in no way liable for any delay in the interment of a body where a protest to the interment has been made or where this ordinance and the rules and regulations for the City cemeteries have not been complied with. The City shall be under no duty to recognize any protests of interments unless they are in writing and filed in the office of the City Clerk. (Ord. 77-110; 1968 Code § 12-158)
- B. Not Responsible for Identity. The City shall not be liable for the truth or correctness of the information contained in the interment permit nor for the identity of the person sought to be interred, cremated or disinterred. (Ord. 77-110; 1968 Code § 12-159)
- C. Errors May be Corrected. The City shall not be liable and reserves and shall have the right to correct any errors that may be made by it, either in making interments, disinterments or removals, or in the description, transfer or conveyance of any interment property, by conveying in lieu thereof other interment property of equal value and similar location insofar as possible. (Ord. 77-110; 1968 Code § 12-157)

19-3-506: EQUIPMENT USED: Only equipment owned or controlled by the City shall be used in opening and closing graves. (Ord. 77-110; 1968 Code § 12-162)

19-3-507: FUNERAL PROCESSIONS: Funeral processions on reaching a cemetery will be under the guidance of the Superintendent or his assistants. Motors must not be kept running in close proximity to any funeral during the services. Funeral parties remaining in the cemetery after four fifteen o'clock (4:15) P.M. weekdays and eleven fifteen o'clock (11:15) A.M. Saturday mornings shall be surcharged in accordance with the schedule in the rules and regulations for the City cemeteries to cover overtime charges. Financial obligations will be the responsibility of the funeral home in charge of the service. (Ord. 77-110; Ord. 86-187; 1968 Code § 12-163)

19-3-508: CHARGES FOR GRAVES: Fees shall be charged for all digging and filling of graves, disinterments and the overtime services of the employees of the cemeteries incidental to burial. All moneys so charged are to be paid to the City Clerk.

- A. A graduated fee shall be charged for the opening and closing of graves in the burial of infants, children, adults and cremated remains; the schedule of graduated fees shall be established in the rules and regulations for the City cemeteries.
- B. For disinterments, a graduated fee shall be charged for an infant, children and adult graves, which fee schedule shall be established in the rules and regulations of the City cemeteries.
- C. The fees for overtime by City personnel shall also be established in the rules and regulations for the City cemeteries. (Ord. 77-110; 1968 Code § 12-164)

19-3-509: GRAVE VAULTS OR BOXES: Concrete grave boxes or vaults (either fiberglass, steel or concrete), for enclosing caskets shall be required in all burials in the irrigated sections of the City cemeteries. However, a grave box or vault shall not be required where the owner or his agent pays the City a fee shown in the rules and regulations for the City cemeteries. Such fee shall be paid at the time and as a part of the grave opening charges.

Furthermore, upon the approval of the City Cemeteries Superintendent, a grave box or vault shall not be required in the burial of indigent persons wherein the expense of burial is borne by public welfare agencies and where the burial is in an area of the cemetery designated for indigents. An applicant may provide and install a box or vault purchased from any source, so long as it complies with the specifications provided by the City. (Ord. 77-110; 1968 Code § 12-165)

19-3-510: CASKETS NOT TO BE OPENED: Once a casket containing a body is within the confines of the cemetery, no funeral director or his embalmer, assistant, employee or agent, nor any cemetery employee shall be permitted to open the casket or to touch the body without the consent of a member of the immediate family or the legal representative of the deceased, or without a court order. (Ord. 77-110; 1968 Code § 12-166)

19-3-511: LOCATION OF INTERMENT SPACE: When the instructions regarding the location of a burial space cannot be obtained, or are indefinite, or when for any reason the interment space cannot be opened where specified, the Superintendent shall contact the funeral home, agent or family to make suitable arrangements. The City shall not be liable in damages for any error made. (Ord. 77-110; 1968 Code § 12-167)

19-3-512: REMOVAL OF BODIES PRIOR TO INTERMENT: Once a casket containing a body is within the confines of the cemetery and has been accepted for interment by the City Cemetery Superintendent, no funeral director or his embalmer, assistant, employee or agent, nor any cemetery employee shall remove or permit the removal of the casket or body contained therein without the written consent of a member of the immediate family, nearest of kin, legal representative of the deceased or without a court order. A casket containing a body cannot be accepted for interment by the City Cemetery Superintendent until the Superintendent receives a properly completed burial order form and burial-transit permit for the deceased. (Ord. 80-98; 1968 Code § 12-167.1)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 6 DISINTERMENTS AND REMOVALS

SECTION:

- 19-3-601: Authorization; Notice
- 19-3-602: Care in Removal
- 19-3-603: Removal for Autopsy
- 19-3-604: Removal for Profit Prohibited

19-3-601: **AUTHORIZATION; NOTICE:** A body may be removed from its burial place only upon written authorization from the known nearest of kin or legal representative of the deceased, or by court order. The City reserves the right to require at least one week's notice prior to any removal or disinterment. (Ord. 77-110; 1968 Code §§ 12-170, 12-172)

19-3-602: **CARE IN REMOVAL:** The City shall exercise the utmost care in making a removal, but it shall assume no liability for damage incurred to any casket or burial case or urn in making the removal. (Ord. 77-110; 1968 Code § 12-168)

19-3-603: **REMOVAL FOR AUTOPSY:** A body may be removed from its burial place for autopsy purposes only upon written consent of the known nearest of kin, or legal representative of the deceased or order of court of competent jurisdiction. (Ord. 77-110; 1968 Code § 12-171)

19-3-604: **REMOVAL FOR PROFIT PROHIBITED:** Removal by the heirs of a body or cremated remains so that the burial space may be sold for profit to themselves, or removal contrary to the expressed or implied wish of the original burial space owner is repugnant to the ordinary sense of decency and is absolutely forbidden. (Ord. 77-110; 1968 Code § 12-169)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 7 MONUMENTS, MARKERS AND MAUSOLEUMS

SECTION:

19-3-701: Permits, Type of Memorials Authorized
 19-3-702: Placement and Size Limitations
 19-3-703: Foundation and Bases
 19-3-704: Installation
 19-3-705: City Liability

19-3-701: PERMITS, TYPE OF MEMORIALS AUTHORIZED:

- A. A permit signed by the Superintendent of Cemeteries shall be required prior to the placement of any monument, marker or other memorial.
- B. Memorial dealers are required to comply with the rules and regulations for placing monuments, markers and other memorials prior to construction of the foundation. A design or sketch with the dimensions for the foundation and placement of the marker or monument or other such memorial must be furnished with the application. No memorial will be allowed on any grave or plot until the plot is fully paid for and the proper fees have been paid. The right is reserved to reject and remove any memorial which, after being erected, does not comply with the standards established by this Chapter or the rules and regulations of the City cemeteries.
- C. No monument or grave marker will hereafter be admitted to the cemetery when made of materials other than granite or bronze, except that upright veterans' markers of marble as supplied by the government are allowed in designated blocks as contained in the rules and regulations for the City cemeteries.
- D. No monument or grave marker will be admitted which is cut in imitation of dogs, cattle or any animal, or any grotesque figure.

- E. No foot markers shall be erected.
- F. No corner markers shall be erected to extend above ground.
- G. No coping or other lot or grave enclosures shall be erected.
- H. Freestanding crosses with a minimum of a six inch (6") granite base, statues on a six inch (6") granite base, as well as monoliths, shafts and columns are permitted, unless specifically prohibited in designated blocks or portions thereof by the rules and regulations for the City cemeteries.
- I. Mausoleums are prohibited unless specifically permitted in designated blocks or portions thereof by the rules and regulations for the City cemeteries. The edge of a mausoleum must be at least six feet (6') from the property line of another owner and no other burial shall be permitted upon the area of ground required by the mausoleum.
- J. Memorial benches, sarcophagi and ledger stones are prohibited. (Ord. 77-110; 1968 Code § 12-173)

19-3-702: PLACEMENT AND SIZE LIMITATIONS:

- A. Unless otherwise provided in the rules and regulations for the City cemeteries by specific provisions for specific blocks, a memorial (customarily a family monument or marker) to be placed on a lot consisting of four (4), six (6) or eight (8) spaces shall be located in the center of the lot and shall not, to the extent possible, encroach upon the individual graves.
 - 1. When the memorial is located in the center of the lot, and if upright individual grave markers on the east side of the center memorial would abut the foundation of the center

A,1) memorial, then the grave markers shall be flush markers.

2. Unless otherwise provided by specific provisions for specific blocks, monuments or markers to be placed on individual grave spaces shall be located on the west end of the grave space.

3. No head markers or monuments shall act as foot markers.

B. Unless otherwise limited or allowed by specific provisions for designated blocks, monuments and markers and other memorials shall not exceed three-fourths ($\frac{3}{4}$) of the width of the space or lot.

1. The depth, front to rear, of a marker or monument on a lot shall not exceed twenty four inches (24'') on the following blocks: 222, 223, 224, 216, 232 and 233.

2. The depth on all other blocks shall not exceed sixteen inches (16'').

C. Monuments, markers and other memorials may be of any height but may be limited by the specific provisions of designated blocks or portions thereof, except that such restrictions shall not apply to markers erected by the Federal government for service personnel.

D. The placing of temporary memorials is prohibited

E. Flush grass markers of granite or standard bronze set flush with the established grade of the plot may be placed on any plots in the cemetery. Flush grass markers are required for any infant or child spaces throughout the cemeteries. Infant graves or cremated remains when placed between two (2) adult graves shall be identified on adjacent adult grave markers. Where the remains of a baby is buried in an occupied adult space, the adult space marker shall identify the double burial.(Ord. 77-110; 1968 Code § 12-174)

19-3-703: FOUNDATION AND BASES:

A. Foundations for memorials must be built of concrete or solid masonry to the satisfaction of

A) the Superintendent. Foundations for above-grade memorials shall be the length and width of the memorial to be placed. The foundation shall be ten inches (10'') deep and shall be supported by auger holes filled with cement. The holes shall be eight inches (8'') wide, thirty one inches (31'') deep and placed every twenty four inches (24'') for the length of the foundation. The top of the foundation shall be flush with the ground.

B. After the effective date¹ of this Chapter, where grave spaces are only eight feet (8') or nine feet (9') long, and where an existing foundation must be removed in order to add a new burial, it shall be the owner's responsibility to replace the foundation and memorial.

C. Bases for monuments, markers or other memorials must be squared sufficiently to allow them to rest firmly on the foundations. No wedging will be permitted. The base must be rock pitch (rough cut) at least four inches (4'') above the ground.

D. Vases or urns may be attached to the granite base, or may be placed into the foundation, but in the latter case, such placement and risk of damage shall be the owner's risk only. (Ord. 77-110; 1968 Code § 12-175)

19-3-704: INSTALLATION:

A. Persons engaged in erecting monuments or other structures, including concrete liners, boxes and vaults, are not permitted to attach ropes to other monuments or trees. They will not be permitted to scatter material or rubbish over adjacent lots, or to leave the same on the ground longer than is absolutely necessary. They are required to set their work as soon as possible after entering the cemetery and to remove their rubbish. They will be held responsible for any damage done by them to other monuments, the grass, trees or any other object whatsoever in the cemetery.

B. Planks must be provided for dumping stone work and for rolling it on the paths, gutters or grass.

C. Workmen within the immediate vicinity of a funeral must suspend their labors until the conclusion of all services.

1. Ordinance 77-110, from which this Section derives, became effective August 9, 1977.

- D. Monument firms and others are prohibited from placing their names on any work.
- E. No memorial work will be permitted to be done in the cemetery on Sundays, holidays or on the day before Memorial Day; provided, however, that floral pieces will be admitted to the cemetery. (Ord. 77-110; 1968 Code § 12-176)

19-3-705: **CITY LIABILITY:** The City shall not be liable for damages for injury from mowing and trimming the lawn about any monument, marker or memorial. (Ord. 77-110; 1968 Code § 12-177)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 3 CEMETERIES

PART 8 GRAVE CARE

SECTION:

19-3-801: Grave Care

19-3-802: Visitor Regulations

19-3-801: GRAVE CARE:

- A. Perpetual Care. Perpetual care as supported by the Endowment Fund shall be held to mean:

1. Cutting of the grass at reasonable intervals,
2. Raking, cleaning and watering at reasonable intervals,
3. Reseeding or resodding, if necessary,
4. Trimming with machine as close as possible around markers, monuments and trellises at reasonable intervals, and
5. Removal of all seedlings and/or saplings from, on and around monuments and markers.

It shall also be held to mean the general preservation of the City-owned roads, walks, fences, buildings, plantings, features of art and the pruning of shrubs and trees that may have been placed by the cemetery, to the end that such cemetery shall remain and be reasonably cared for as a cemetery.

Perpetual care shall not be construed as meaning the maintenance, repair or resetting of any grave marker or memorial placed upon any individually owned lot or grave space. Neither does the term "perpetual care" mean the doing of any special or unusual work on any lot nor the reconstruction of any marble, granite, bronze, concrete or stone work in any section or the repair or rebuilding of any structure, building or utility damaged by the elements, an Act of God, common enemy, thieves, vandals, strikes, malicious mischief, unavoidable

- A) accidents, invasions, insurrections, riots or by order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

- B. Planting. The Superintendent shall have charge of the planting of trees and shrubs in accordance with the general plan for the ornamentation of the grounds. Further, no trees, spreading plants or shrubbery shall be planted or grown on the lots or spaces. Roses may be planted in blocks specifically authorizing them, as provided in the rules and regulations for the City cemeteries. Unless provided otherwise in the cemetery rules, bedding plants may be planted around the base of a monument which is in the center of the lot, or if the monument or marker is on the west edge of the space, the bedding plants shall be only on the east side. The bed shall be not more than six inches (6") in width from the base.

- C. Grading of Lots.

1. In order to produce a natural and pleasing effect, and also to ensure proper drainage of the ground, the grade of all lots and graves will be determined by the Superintendent of Cemeteries and, if need be, may be changed as emergencies may require.

2. Grading and digging on the lots by others than employees of the City cemeteries may be done only under the direction of the Superintendent.

3. All graves will be sodded level and no mounding or planting will be allowed on any grave unless specifically permitted by conditions of use of selected cemetery blocks.

- D. Unauthorized Work by Cemetery Employees. The employees of the cemetery are not permitted to perform any extra work for lot owners during working hours except under the direction of the Superintendent.

- E. Ornamental Appurtenances. Except as otherwise provided by this paragraph, no trellises, baskets, boxes, shells, toys, crockery, glassware, potted plants, cans or other objects are permitted on any lot or grave space. All prior ordinances permitting trellises are repealed. Furthermore, no hanging objects, such as pots, artificial flowers or wreaths, etc., are allowed to hang from or be attached to existing trellises. After the effective date of this ordinance, notice shall be given to known owners of spaces containing trellises, as well as by publication, that owners desiring to retain their trellises are to plant roses, where none presently exist, on both sides of the trellis. Any trellises not having live roses by October 1, 1978, shall be deemed to be abandoned. Such abandoned trellises may be removed by the Cemetery Superintendent. Trellises with live roses shall be retained.
- F. American Flags Allowed. Small American flags or memorial flags may be displayed in any part of the entire cemetery when it is customarily displayed.
- G. Expense of Maintenance.
1. No expense for cleaning a monument necessitated by any cause whatsoever will be assumed by the cemeteries.
 2. The cemeteries shall not be responsible for scratching or chipping of any type of monument or marker except due to carelessness of an employee of the City.
- H. Fences, Enclosures. No fences, railings, copings or other enclosures shall be permitted around lots, plats or graves.
- I. Artificial Flowers.
1. Artificial flowers will be permitted in the City cemeteries only when placed in urns or other containers made of some durable material excluding glass, pottery or other such fragile material, which urns or containers shall contain sand to be otherwise weighted or anchored so as to maintain their stability and position. Said urns or containers shall be placed and located so that they will not interfere with or hinder the mowing operations or other like care required in the cemeteries.
 - I) 2. Artificial flowers, when placed in containers and maintained as herein provided, will be allowed in the cemeteries at all times excepting during the three (3) cleanup periods as prescribed in this Section; provided, that the conditions set forth in this Section are complied with at all times, excepting that said artificial flowers may be placed or used on new interment spaces during the three (3) fifteen (15) day cleanup periods provided for in this Section and for an additional period of three (3) days prior to said fifteen (15) day cleanup periods.
- J. Cleanup Periods. Three (3) fifteen (15) day cleanup periods shall be allowed each year for the purpose of removing broken or damaged urns or like containers and likewise removing flowers which have become tarnished, damaged, unsightly or otherwise objectionable. The Superintendent of Cemeteries shall, at City expense, publish or cause to be published in two (2) daily newspapers of general circulation published in the City, a notice informing the public of the time of such cleanup periods and that said periods are provided to allow and encourage the removal and cleanup of said containers and flowers as provided in this Section. If only one daily newspaper of general circulation is published in the City, said notice shall be given only in said paper. This cleanup service may be performed by the persons who have placed this container or flowers on the grave space or spaces or are interested in the care and attention devoted to such areas. These periods shall be from March 1 to March 15, May 1 to May 15 and November 1 to November 15 of each year. If, within such cleanup periods or any of them, or any other time, the persons who placed the containers or flowers or who are interested in the care and maintenance to be given to the same have not cleaned up said areas and removed the tarnished, unsightly or damaged containers or flowers, the Superintendent of Cemeteries or his authorized representative, may remove all such unsightly, tarnished or damaged containers, flowers or other like objects and destroy same; provided, always, the Superintendent of Cemeteries may remove or cause to be removed at any time tarnished, unsightly or damaged containers or flowers which are offensive to the appearance of the cemeteries. The City shall not be liable or

- J) responsible for accidental removal of new or near new looking artificial flowers, nor for damage caused by persons tying or otherwise attaching containers, flowers or other objects to monuments or stones.
- K. Flowers, Grave Blankets; Placement and Removal. Natural flowers, grave blankets and wreaths may be properly placed on cemetery grave spaces at any time, usually during December, January and February; provided, however, that said objects may be removed if they become injurious to the grass on said grave spaces or unsightly or dilapidated.
- L. Removal of Properties Considered Objectionable. The Cemetery Superintendent may prohibit or remove from lots all chairs, settees, vases, artificial flowers, grave covers, toys or any article that may be considered objectionable. Unfilled detached vases will not be allowed to remain on lots or grave spaces. (Ord. 77-110; 1968 Code § 12-178)

- F. No persons with firearms shall enter the cemetery except for military funerals or similar occasions, as well as any peace officer, sheriff or other law enforcement officer.
- G. Pets are strictly prohibited, except for seeing-eye dogs and pets confined to vehicles.
- H. No driving or riding shall be allowed on lots or upon the lawns or walks. All persons driving in the cemetery will be held responsible for any damage done by them. Speed limit in the cemetery is twenty (20) miles per hour.
- I. Visitors are reminded that the cemeteries are devoted to the interment and repose of the dead and it is expected that all persons will show due respect and observe this ordinance and all the rules and regulations for the City cemeteries. (Ord. 77-110; 1968 Code § 12-179)

19-3-802: VISITOR REGULATIONS:

- A. Entrance into the cemetery shall be through the main entrance only.
- B. The Superintendent or his assistants shall be at the cemetery and ready to give information or render assistance to lot owners and visitors from eight o'clock (8:00) A.M. until five o'clock (5:00) P.M. on each weekday. The office will be closed Saturday afternoon, Sundays and on legal holidays with the exception of Memorial Day.
- C. All persons are welcome to visit the cemetery while gates are open. Visitors are expected at all times to be orderly and shall not walk on flower beds or borders. Children shall not run at will over the cemetery.
- D. All persons are forbidden to pick or remove the flowers or plants without permission, to injure trees or shrubs on any lot or grave, or to injure or deface any monument, vault, structure or other property.
- E. Picnicking and lunching in the cemetery is prohibited. Rubbish must be disposed of in litter cans provided.

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 4 MUNICIPAL AIRPORT

PART 1 MUNICIPAL AIRPORT ADVISORY COMMISSION

SECTION:

19-4-101: Commission Created
 19-4-102: Membership
 19-4-103: Functions
 19-4-104: Meetings; Chairman

Commissioners of El Paso County in matters pertaining to land use and such other matters affecting the construction, planning or operation of the Airport. The Commission shall render advice concerning the Airport Master Plan, its implementation, updating or changes thereto. The Commission shall review and make recommendations concerning long-range planning for the Airport. (Ord. 3183; Ord. 3748; Ord. 80-140; 1968 Code § 1-154)

19-4-101: **COMMISSION CREATED:** There is hereby created a Municipal Airport Advisory Commission which shall consist of seven (7) members to be appointed by the City Council. Appointments to the Commission shall be made in such manner as to achieve staggered three (3) year terms. (Ord. 78-176; Ord. 80-140; Ord. 85-62; 1968 Code § 1-152)

19-4-104: **MEETINGS; CHAIRMAN:** The Commission shall select its own chairman. The members of the Commission shall meet at such time and place as the chairman shall select. (Ord. 80-140)

19-4-102: **MEMBERSHIP:** Any member of the Commission may be appointed to succeed himself provided that no member shall after serving two (2) successive terms be reappointed until at least one year has elapsed. Council may appoint members who are not residents of the City provided that a majority of the members of the Commission shall always be City residents. In addition to the regular members the Council may appoint one or more liaison members from various agencies and organizations including, but not limited to the following: City Council, Board of County Commissioners of El Paso County, El Paso County Department of Transportation and United States Air Force. These liaison members shall not have the right to vote on any matter before the Commission. They shall serve for such specified term as determined by the Council. Commission members and liaison members shall serve without compensation. (Ord. 3930; Ord. 80-140; 1968 Code § 1-153)

19-4-103: **FUNCTIONS:** Municipal Airport Advisory Commission shall act in an advisory capacity to the City Manager, the City Council and the City Planning Commission, and may act in an advisory capacity to the El Paso County Planning Commission and the Board of County

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 4 MUNICIPAL AIRPORT

PART 2 GENERAL PROVISIONS

SECTION:

19-4-201: Definitions
 19-4-202: Reserved
 19-4-203: Director of Aviation; Powers and Duties
 19-4-204: Rules and Regulations; Procedures
 19-4-205: Use of Airport Facilities; Permit Required
 19-4-206: Commercial Enterprises; Permit and Insurance Requirements
 19-4-207: Assumption of Risks
 19-4-208: Flight Regulations
 19-4-209: Motor Vehicle Traffic Regulations
 19-4-210: Heliports Designated
 19-4-211: Penalty

19-4-201: **DEFINITIONS:**¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

CONCESSION or BUSINESS: The sale, offering for sale or the furnishing of any commodity, article, facility or service.

MUNICIPAL AIRPORT: All properties presently leased or owned as shown on the map attached hereto and by reference made a part hereof, including all of that property commonly known as "Peterson Field", and such as may be hereafter acquired by the City as a Municipal aeronautical facility. It is a terminal facility for development, promotion and accommodation of air commerce, air travel and air transportation, and its operation is hereby declared to be a governmental function of the City, pursuant to C.R.S. 1973 § 41-4-101.

OPERATIONAL AREA: Any place on the Municipal Airport not leased or demised to anyone for exclusive use, and not a public area, highway or public vehicular area; but shall include public runways, public taxiways, public ramp and apron areas, public cargo ramp and apron areas, public aircraft parking and storage areas, and fuel storage areas. (Ord. 3906; 1968 Code, § 10-134)

19-4-202: **Reserved**

19-4-203: **DIRECTOR OF AVIATION; POWERS AND DUTIES:**

- A. There is hereby created the position of Director of Aviation, who shall act under the direction of the Director of Public Works.
- B. The Director of Aviation is hereby empowered and authorized to regulate and act as manager of the Municipal Airport, to supervise the operation and control thereof, to direct the use and occupancy, management, control, operation, care, repair and maintenance of all structures and facilities thereon and all land on which the Municipal Airport is located and operated. The powers hereby conferred upon the Director of Aviation shall extend to the entirety of the Municipal Airport, and aeronautical activities except only to the extent that State and Federal laws and Federal agency regulations may pre-empt such control, and as limited by contracts, leases and other dispositions of the City Council.
- C. Said Director is expressly directed and empowered to enforce all applicable City ordinances and State and Federal laws and regulations, and to cooperate with Federal agencies having jurisdiction in the premises.
- D. The Director of Aviation shall have the power to cause the removal or ejection from the airport premises any person who violates any rule or regulation promulgated under the authority hereby granted, or any reasonable emergency order issued by the said Director, and he may deny the use of the Municipal Airport and its facilities to any such person if said Director determines that such denial is necessary to the safe and orderly operation of the Municipal Airport. He may exercise such powers of ejection and refusal of entry in relation to any object, animal, vehicle or aircraft

1. For definitions of general application, see Section 1-1-203 of the Code of the City.

- D) which is in violation of such rules and regulations.
- E. The Director of Aviation may suspend or restrict any or all aircraft operations on the airport whenever such action is deemed necessary in the interest of safety.
- F. The Director of Aviation may designate a representative to exercise such authority as may be required in the performance of this Part. (Ord. 3906; Ord. 81-222; 1968 Code, § 10-135)

19-4-204: RULES AND REGULATIONS; PROCEDURES:

- A. The City Manager is hereby empowered and authorized to adopt rules, consistent with State and Federal law, to implement the purposes of this Article, and to ensure safety in the operational area and other premises of the Airport.
- B. The procedure for the adoption of rules and regulations authorized by this Section shall be as follows: The City Manager, the Director of Public Works, the Director of Aviation or the Airport Advisory Commission¹ may propose the adoption or amendment of any reasonable or necessary rules or regulations. The City Manager shall promulgate such rules as he may adopt by filing one copy with the City Clerk, and one copy with the Director of Aviation.

No rule or regulation shall be in full force and effect until published by one of two (2) methods: first, publication in full one time in the official City publication, or second, publication of a notice one time, in said publication, that such rules and regulations have been adopted, and are on file with the respective officials. The date of adoption shall also be stated.² All rules and regulations so adopted and filed shall be open to public inspection at all reasonable times. Cancellation by the City Manager of any current rule or regulation shall become effective upon publication as above. (Ord. 3906; 1968 Code, § 10-140)

19-4-205: USE OF AIRPORT FACILITIES; PERMIT REQUIRED:

It shall be unlawful for any person to use the Municipal Airport as a base or terminal for commercial aviation activities, or for any person to conduct any concession or business upon the Municipal Airport or upon any land acquired by the City for use in connection with the said airport or upon or in any of the buildings, structures, land, parking places, walkways, roadways or other facilities used or operated in connection with the said airport, without first obtaining the written permission of the Director of Aviation, as authorized by the City Manager or City Council. (Ord. 3906; 1968 Code, § 10-136)

19-4-206: COMMERCIAL ENTERPRISES; PERMIT AND INSURANCE REQUIREMENTS:

It shall be unlawful for any person to use the facilities of the Municipal Airport as a base of operations for the purpose of giving flight instruction or leasing or renting of aircraft for compensation without securing an annual permit therefor. The permit shall be issued by the Director of Aviation only upon compliance of the applicant with the following requirements:

- A. No such permit shall issue until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the licensee with the City also named as insured:

Bodily Injury	
Each person	\$100,000.00
Each accident	300,000.00

Provided, as to any aircraft operated by permittee, such insurance shall be at least fifty thousand dollars (\$50,000.00) per passenger seat.

Property Damage	
Each accident	\$100,000.00
Aggregate	300,000.00

Each such policy of insurance shall contain an endorsement to the effect that the insurance

1. See Section 19-4-101 of this Chapter.

2. For definition of official City publication, see Section 1-1-601 of this Code.

- A) carrier shall notify the City at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the permit until coverage shall be reinstated. All policies shall be kept in force for the period of the Permit.
- B. Operators Covered.
1. Fixed base operators shall file a certificate of insurance covering premises, operations and aircraft, including liability of all employees.
 2. Flight instructors who are not employees of fixed base operators shall present required evidence of insurance and other documentation for each aircraft used for flight instruction and/or student rental.
 3. Flight instructors employed by fixed base operators, when operating as flight instructors, but not as such employees, and so not covered by the employer's insurance shall comply individually with paragraph 2 above.
 4. Those operators who lease or rent aircraft to others for compensation, using the Municipal Airport as a base of operations for such lease or rental shall meet the requirements of this Article.
 5. Flying clubs shall show evidence of insurance as required in subsection A.
- C. Other Documentation Required. Before the permit described above shall be issued, the owner or pilot of the aircraft to be so used for flight instruction or lease or rental shall file with the Director of Aviation a written certificate that the aircraft is licensed and operated in accordance with all Federal Aviation regulations.
- D. Permit Fee. The annual permit fee shall be ten dollars (\$10.00). (Ord. 4332; 1968 Code § 10-136.1)

19-4-207: ASSUMPTION OF RISKS: Every person to whom permission has been granted by the Director of Aviation, under the terms of Section 19-4-205 hereof to use the Municipal Airport and its facilities and premises, shall at all times assume full responsibility for such activities.

Such permission shall be further conditioned that any person shall, as a consideration for the use of the Municipal Airport and its facilities, at all times release, hold harmless, and indemnify the City and all of its officers, agents and employees, from any and all responsibility, liability, loss or damage resulting to any such person, or caused by or incidental to the operation, construction, maintenance, facilities or services of the Municipal Airport.

The use of the Municipal Airport by any person for any such purpose or the payment of any fees or compensation therefor, shall be itself an acknowledgment that the conditions herein set forth are accepted. (Ord. 3906; 1968 Code, § 10-137)

19-4-208: FLIGHT REGULATIONS: It shall be unlawful for any person to operate or fly any airplane, aircraft, dirigible, airship, free balloon, glider, helicopter, autogiro, or any contrivance for flight in the air (hereinafter referred to by the single term "aircraft") in or over the City, except in accordance with the following prescribed regulations:

- A. The operator of any aircraft shall hold a currently valid airman certificate with appropriate airman rating record issued by the Administration of the Federal Aviation Administration or his successor in function.
- B. The aircraft shall carry therein a currently effective aircraft registration certificate issued by the Administrator of the Federal Aviation Administration or his successor in function, and a currently effective aircraft airworthiness certificate and aircraft operation record issued by the Administrator of the Federal Aviation Administration or his successor in function.
- C. No person shall operate any aircraft in a careless or reckless manner so as to endanger life or property, nor shall any person operate any aircraft acrobatically over any area within the City limits. The term "acrobatically" shall include any maneuver not necessary to maintain normal flight.
- D. All takeoffs and landings of aircraft shall be made only at the Municipal Airport or at other airports owned by the City, the State of Colorado or the United States government, or at duly licensed aviation fields or helicopter

- D) landing areas, provided, however, that the City Manager, at the request of and with the consent of the person owning or controlling the property may with due regard for the safety of persons and property involved, grant permission for helicopter landings at other than designated landing areas on an ad hoc basis; provided, further, that air shows over airport property may be permitted by the City Manager where a Federal Aviation Administration waiver has been obtained.
- E. No persons except peace officers, duly authorized post office, airport and air carrier employees or members of the armed forces of the United States on official duty, shall carry any weapons, explosive or inflammable material on the airport except cased sporting guns carried for transshipment.
- F. No person shall drop, distribute or throw from any aircraft any handbill, circular or other printed literature or any other object or substance whatsoever.
- G. No person shall receive or discharge any goods, merchandise or other articles whatsoever, or any fuel while in the air, except in inflight emergencies.
- H. No person shall board or leave any aircraft while in the air except in an emergency, when necessary for the preservation of human life, or when engaging in parachute jumping under Federal Aviation Administration regulations.
- I. No person shall make any unusual, or unnecessarily disturbing noises with any aircraft.
- J. Except in taking off and landing, no person shall operate any single-engine aircraft at an altitude less than six hundred feet (600') above ground level, any multi-engined aircraft at an altitude of less than one thousand feet (1,000') above ground level, or any military jet aircraft at an altitude of less than fifteen hundred feet (1,500') above ground level. Provided, however, that helicopters may be flown less than the minimum altitude set forth herein if the operations of same are conducted without hazard to persons or property on the surface. Provided further, that at no time shall any aircraft be flown below an altitude which will

- J) permit an emergency landing without hazard to persons or property on the surface in the event of the failure of a power unit.
- K. No person shall operate an aircraft in such proximity to other aircraft as to create a collision hazard. No person shall operate an aircraft in formation flight over the City without prior written permission of the Director of Aviation.
- L. No person shall operate in or over the City any fixed or moored balloon without prior written permission of the Director of Aviation.
- M. No person shall fly an aircraft except in accordance with the traffic patterns set forth in the traffic pattern booklet entitled "Aircraft Traffic Patterns, City of Colorado Springs, Peterson Field", as revised and as hereafter amended. (Ord. 3906; 1968 Code, § 10-139)

19-4-209: MOTOR VEHICLE TRAFFIC REGULATIONS: The Director of Aviation, with the concurrence of the City Traffic Engineer, shall have power and authority, and he is hereby empowered and authorized, upon the basis of traffic engineering or other investigations and studies or where necessitated by the peculiar character of the Municipal Airport as an airport, to regulate the operation of automobile and vehicular traffic and parking facilities on the Municipal Airport. By way of example, but not by way of limitation, such rules and regulations may provide for the following:

- A. Establishment of zones for special parking.
- B. Establishment of zones for loading and unloading of passengers and for the deliveries of goods, and time limitations thereon.
- C. Designation of bus stops.
- D. Fixing of speed limits
- E. Establishment of minimum equipment requirements for automobiles and other motor vehicles allowed in the operational area.
- F. Installation of traffic control signs, signals and devices for the regulation of traffic in accordance with national standards.

- G. Establishment of accident reporting procedures.
- H. Establishment of right of way regulations.
- I. Prescribing methods of parking.
- J. Designation of one-way and through traffic roadways, driveways and thoroughfares, access and service roads.

The Director of Aviation shall, upon establishing such traffic regulations, cause to be installed the necessary signs, markings, traffic control signs, signals and devices to give public notice of said traffic regulation. (Ord. 3906; 1968 Code, § 10-140.2)

19-4-210: HELIPORTS DESIGNATED: The Director of Aviation is hereby empowered and authorized to designate heliports within the City after conferring as necessary with interested city officials, the Federal Aviation Administration and other appropriate agencies. (Ord. 4041; 1968 Code § 10-140.3)

19-4-211: PENALTY: It shall be unlawful for any person to violate any provisions of this Article, or any regulation adopted pursuant to its provisions. (Ord. 75-102; 1968 Code, § 10-141)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 5 STREETS AND PUBLIC WAYS

PART 1 CONSTRUCTION, REPAIR AND MAINTENANCE

SECTION:

- 19-5-101: City Engineer; Standards and Specifications
- 19-5-102: Datum Line, Bench Marks for Establishing Grades
- 19-5-103: Setting of Alignment and Grade
- 19-5-104: Construction of Curbs and Gutters
- 19-5-105: Base Requirements Prior to Acceptance as Part of City Street System

19-5-101: CITY ENGINEER; STANDARDS AND SPECIFICATIONS: The City Engineer is authorized to establish standards and specifications for the construction of all public improvements in the City. Such standards shall be designed to assure long life, good performance and minimum maintenance of all public improvements. It shall be unlawful for any person to construct, reconstruct or demolish any public improvement in the City except in compliance with such standards and specifications. Such standards and specifications shall be available to the public at the office of the City Engineer in printed form at cost not to exceed fifteen (15) cents per page.

The City Engineer or his designated representative is empowered to enter upon any project or worksite on public property without notice for the purpose of inspection to assure compliance with such standards and specifications. (1980 Code)

19-5-102: DATUM LINE, BENCH MARKS FOR ESTABLISHING GRADES: The datum line or base of levels for establishing the grades of all streets and alleys within the corporate limits of the City, shall be sea level datum of 1929 used by the National Ocean Survey (N.O.S.). All grades established as provided by this Chapter or that may hereafter be established, shall be calculated from the datum marks established by this Section. (Ord. 776; 1968 Code §§ 12-10,12-11; 1980 Code)

19-5-103: SETTING OF ALIGNMENT AND GRADE:

- A. The City Engineer may at any time at his discretion permit any property owner or contractor to employ a licensed surveyor to set to proper alignment and grade for the installation of curb, gutter and sidewalk placed on the public streets, provided such property owner or contractor shall agree in writing to replace any curb and gutter found to be placed at an improper grade or alignment. All grade and alignment shall be approved by the City Engineer. The City Engineer may further permit at any time at his discretion sidewalks to be set without the required surveyor's stakes where curb and gutter has been previously installed, provided the engineer shall inspect and approve the forms before such sidewalk is laid.
- B. For the purpose of ensuring the proper installation of the curb, gutter, sidewalk or other improvements, the City Engineer shall inspect the installation of the curb, gutter, sidewalk or other improvement and inspection fees shall be established by resolution. (Ord. 2424; 1968 Code § 12-4)

19-5-104: CONSTRUCTION OF CURBS AND GUTTERS:

- A. Ordered by City. The City Council may by resolution, order the construction or reconstruction of curb and gutter other than in districts. In all such cases the City Clerk shall notify the owner of the lot, tract or parcel of land in front of or along which such curb and gutter is to be laid to construct or reconstruct such curb and gutter within forty five (45) days from the date of service of such notice. Said notice shall be in writing and shall be served upon the owner if found within the City, and if not it may be served by registered United States mail, or by publication for ten (10) days

- A) in some daily newspaper published in this City. The insufficient service of such notice shall not affect any owner properly served. Within ten (10) days of the mailing of the first publication of such notice any owner affected thereby may appear before the City Council to show why such curb and gutter should not be constructed or reconstructed, and the notice shall so state. If on or before its first meeting after the expiration of such ten (10) days the City Council has not altered or amended such resolution, all objections to such construction or reconstruction shall be deemed to have been waived, and the owner shall construct or reconstruct the curb and gutter as originally directed.

The owner of the corner lot, tract or parcel of land shall construct or pay for the curb and gutter at the street intersection. Whenever the owner shall be in default, the City Council may cause the required work to be done by contract, and when done issue to the contractor doing the work a certificate therefor, stating the just amount due the contractor and such assessment shall be a lien upon said property until it shall be paid. In case of failure to pay such assessment within thirty (30) days after the issuance of said certificate, the same may be certified by the City Clerk to the County officer having the custody of the tax list at the time such certification is made, to be by him placed upon such tax list for the current year, to be collected in the same manner as other taxes are collected with ten percent (10%) penalty thereon to defray the cost of collection and all the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes, and their redemption of the same shall apply and have as full effect for the collection of said assessment for curb and gutter as for general taxes. (Ord. 800; 1968 Code § 12-14)

- B. Curb Lines. The City Engineer, at his discretion and for the purpose of protecting trees, may narrow the distance between curb lines as herein prescribed, one foot (1') on either side, provided such change extends through an entire block, or through an approved transition section. (Ord. 739; 1968 Code § 12-16.1)

19-5-105: BASE REQUIREMENTS PRIOR TO ACCEPTANCE AS PART OF CITY STREET SYSTEM: Before any street or alley shall be accepted by the City as a part of its street system such street or alley shall be constructed in accordance with City Standard Specifications. (1980 Code)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 5 STREETS AND PUBLIC WAYS

PART 2 EXCAVATIONS

SECTION:

- 19-5-201: Definitions
- 19-5-202: Excavation License Required
- 19-5-202.1: Excavation Board
- 19-5-203: Application for License; Bond and Insurance Requirements; Revocation
- 19-5-204: Permit Required; Inspections
- 19-5-205: City Responsibilities
- 19-5-206: City Departments to Procure Permits
- 19-5-207: Protection of Adjoining Property
- 19-5-208: Care of Excavated Materials, Clean Up
- 19-5-209: Protection of Watercourses and Vital Structures
- 19-5-210: Breaking Through Pavement
- 19-5-211: Work Procedures and Operations
- 19-5-212: Depth of Structures
- 19-5-213: Backfilling Requirements
- 19-5-214: Restoration of Surface
- 19-5-215: Rerouting of Traffic
- 19-5-216: Relocation and Protection of Utilities
- 19-5-217: Prompt Completion of Work
- 19-5-218: Preservation of Monuments
- 19-5-219: Additional Specifications

19-5-201: **DEFINITIONS:** The following terms, as used in this Part 2, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

EXCAVATOR: One holding a license and permit under this Part 2, and those departments of the City doing excavations under this Part 2, or an agent, employee or contractor working for under one holding a license and/or permit.

EXCAVATION: Any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful substructure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.

FACILITY: Pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, poleline, anchor, cable, junction box, transformer or any other material, structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place or right of way.

PUBLIC PLACE: Any public right of way, utility easement, drainage structure, street way, place, alley, sidewalk, park, square, plaza or any other similar public property owned or controlled by the City and dedicated to public use, including the location of any electric or gas service line whether on public or private property. This shall include dedicated but not improved streets in new subdivisions.

SUBSTRUCTURE: Any pipe, conduit, duct, tunnel, manhole, traffic detector loop, vault, buried cable or wire, or any other similar structure located on or below the surface of any public place.

UTILITY: Any business or service, including Municipal department, engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, transportation or communication service including telephone, telegraph and cable television. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-108)

19-5-202: EXCAVATION LICENSE REQUIRED:

Except for departments of the City, no person shall make any excavation or fill any excavation in any public place without first obtaining a license and permit therefor except as otherwise provided in this Article. No license or permit to make an excavation or fill an excavation in a public place shall be issued except as provided in this part.

Nothing herein contained shall be construed to prevent the making of such emergency excavations as may be necessary for the preservation of life or property or for the location of a hazardous condition in a facility, or for making emergency repairs; provided, that the

person making such excavation shall apply for a permit on the first day after such work is commenced. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-104)

19-5-202.1: EXCAVATION BOARD:

- A. There is hereby created an Excavation Board, to be composed of nine (9) members to be appointed by the City Council. The Excavation Board shall be responsible for advising the City Council, City Manager and others on matters pertaining to excavations in general and in particular on matters contained in this Part 2 including but not limited to suspensions and revocations.
- B. Membership. Of the nine (9) members, one shall be a main line utility contractor with an excavator's license, one shall be a plumbing services contractor with an excavator's license, one shall be a registered professional engineer in private practice, one shall be a developer, one shall be a representative from the telephone company, one shall be a representative of the Department of Utilities, one shall be a representative of the Department of Public Works, one shall be a representative of the Department of Support Services, and one shall be citizen at large.
- C. Term. Term of membership shall be for three (3) years. Appointments to the Excavation Board shall be made in such manner so as to achieve staggered three (3) year terms so that no more than three (3) of the initial appointee's terms shall expire on the same year.
- D. Organization. The members of the Excavation Board shall meet at such time and place as they may fix. They shall select one of their number as Chairman and one as Vice Chairman, each of whom shall serve one year until their successors have been selected. Meetings may be called at any time by the Chairman, or in his absence, by the Vice Chairman or any other member so designated by the Chairman. A majority of the Excavation Board shall constitute a quorum for the transaction of business. A record of the Board's proceedings shall be kept.
- E. Staff Support. The City Manager or his designee shall provide staff support services to the Excavation Board. (Ord. 85-214)

19-5-203: APPLICATION FOR LICENSE; BOND AND INSURANCE REQUIREMENTS; REVOCATION:

- A. Requirements. Any person desiring such license shall make application therefor to the City Clerk on forms provided by the City Clerk. The written application shall state the name and address and principal place of business of the applicant. Such license shall be issued by the City Clerk upon payment to the City of the sum of twenty five dollars (\$25.00). All licenses issued under this Part shall, unless sooner suspended or revoked, expire on June 30 of each year. Said license may be renewed no later than thirty (30) days after the expiration for a sum of twenty five dollars (\$25.00). The City Clerk shall keep a record of all licenses issued.
- B. Before an excavation license is issued, the applicant shall file with the City Clerk one five thousand dollar (\$5,000.00) surety bond in a form approved by the City Attorney. Said bond shall ensure that the excavator will properly backfill and maintain any excavation made by him for a period of one year and that he shall promptly pay for any charges billed to him by the Department of Public Works for permanent resurfacing of the excavation or replacement of traffic detector loops or pavement markings.
- C. No excavation license shall be issued until the applicant shall furnish evidence of current public liability and property damage insurance policies. The following insurance coverage shall be required in the name of the excavator with the City also named as insured:

Bodily Injury		
Each person		\$500,000.00
Each accident		500,000.00

Property Damage		
Each accident		\$ 50,000.00
Aggregate		100,000.00

Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the City at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be cause for automatic suspension of the license until coverage is reinstated in accordance with

- C) this Section. All policies shall be kept in force for the period of the license.

Notwithstanding the requirements of this Section, a public utility holding a franchise from the City, or other governmental agencies may be relieved of the obligation of submitting said bond and certificate of insurance by the Director of Public Works.

- D. Revocation or Suspension of Licenses. Any license issued pursuant to this Part 2 may be revoked in accordance with the procedures outlined below.

1. In addition to any other remedies provided by this Code, if the holder of an excavation license (excavator) fails within forty five (45) days of receipt to pay any claim submitted to the excavator by the City that has been determined by the Safety and Risk Manager to be a valid claim against the excavator for injuries to persons or property caused by excavation without obtaining a location, an intentional cutting, a repeated act of negligent cutting by the excavator, or failure of the excavator to comply with any provisions of this part, or if the excavator had failed to properly place and maintain barriers, warning devices, and routing signs necessary for safety as specified by the Manual on Uniform Traffic Control Devices (MUTCD), then the Safety and Risk Manager may seek license revocation or suspension in accord with City Code Section 8-1-801 et. seq. as modified herein.

2. If the Safety and Risk Manager believes that the conduct of the excavator is so inimicable to the public health, safety and general welfare as to constitute a nuisance or imminent hazard and thus give rise to an emergency, the Safety and Risk Manager may pursue summary suspension of the excavator's license in accord with City Code Section 8-1-807, and unless waived by the licensee in writing the Excavation Board shall within fourteen (14) days after the Licensing Officer has acted conduct a hearing upon the Summary Order.

3. Hearing Procedure.

(a) Upon commencement or suspension or revocation proceedings, the Excavation Board shall set a time and place for the hearing of the matter.

- D3) (b) The Excavation Board shall give the licensee timely notice of the time and place of the hearing and the violations asserted. Such notice shall be served personally or by mailing by first-class mail to the last address furnished to the Licensing Officer by the licensee, at least ten (10) days, including Saturdays, Sundays and legal holidays prior to the hearing. In lieu of such service, or in addition thereto, a copy of such notice may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office or may be affixed to some prominent structure on such premises. The notice shall state the alleged grounds for suspension or revocation of the license, as applicable.

(c) All evidence shall be recorded stenographically or by electronic recording device.

(d) In all such proceedings, the City Attorney or his designate shall act on behalf of the City during the hearing.

4. The Excavation Board, after hearing all of the evidence, shall make findings of fact and conclusions of law on the issues before it. If it concludes that revocation or suspension is not warranted by law or evidence, it shall dismiss the proceedings against the licensee. If it concludes that suspension or revocation is warranted, it may, in its discretion:

(a) Suspend the license up to ninety (90) days; or

(b) Revoke the license; or

(c) Order that the excavator as a condition of not having his license suspended or revoked deposit the sum of up to five thousand dollars (\$5,000.00) with the City as a condition of keeping the license in effect. The sum of five thousand dollars (\$5,000.00) may be used by the City for reimbursement for injuries to persons or property caused by defective work by the excavator, or failure of the excavator to comply with any provisions of this part, or failure of the excavator to properly place and maintain barriers, warning devices and routing signs necessary for safety; or said sum may be used to reimburse the owner of facilities improperly cut by the excavator; or said sum may be used to reimburse the City for costs incurred by the City for barricade work or for correcting or repairing defective work. The excavation Board may upon finding a second violation increase

- D4) the deposit to ten thousand dollars (\$10,000.00) as a condition of keeping the license in effect. No further increases shall be made.

5. Notice of Suspension or Revocation.

(a) Upon suspension or revocation of any license required by this Part 2, notice of such suspension or revocation shall be given by personally serving the licensee with the order of suspension or revocation or by mailing such order to such person by certified or registered mail at the business address of the licensee as shown on the license or at the address of the designated agent. In lieu of such service, or in addition thereto, a copy of such order may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office, or may be affixed to some prominent structure on such premises.

(b) The order shall be effective immediately upon service of notice thereof unless the order provides otherwise. Service of such order shall be complete upon mailing or posting.

6. Effect of Suspension or Revocation. Upon the effective date of suspension or revocation of any license required under this Part 2, the licensee of such licensed business or activity shall cease and desist from further operation or activity.

7. Appeals: Any decision of the Excavation Board may be appealed pursuant to Section 8-1-806 of the Code of the City of Colorado Springs 1980. On appeal, the matter shall be subject to the provisions of Section 8-1-808 of the Code. If no appeal is made as provided above, then the decision of the excavation Board shall be final agency action. (Ord. 74-56; Ord. 85-214; 1968 Code §§ 10-105, 10-106)

19-5-204: PERMIT REQUIRED; INSPECTIONS:

- A. In addition to the requirement of obtaining a license, no person shall proceed to make or fill any excavation without first obtaining an excavation permit from the City Engineer. The written application for an excavation permit shall state the name, address, emergency phone number and principal place of business of the applicant, the location and dimensions of the

- A) installation or removal and the approximate size of the excavation to be made, the purpose of the facility, the approximate time which will be required to complete such work including backfilling said excavation and removing all obstructions, material and debris, and such other pertinent information as is deemed necessary by the City Engineer. Such application shall be submitted to the City Engineer and if he shall approve same, he may order the issuance of the excavation permit. The City Engineer shall keep records of all excavation permits issued for a period of at least one year after issuance.

If the excavation is within three hundred fifty feet (350') of a signalized intersection, the application must also be reviewed by the Traffic Engineering Division.

- B. Excavation permits shall not be required for excavations in streets the City has not accepted for maintenance, unless within three hundred fifty feet (350') of a signalized intersection, nor shall an excavation permit be required for a plumber licensed in accordance with this Code when such plumber is installing water, wastewater or gas service lines from a property line of private property to a structure on such property.
- C. The City Engineer shall make such inspections as are reasonably necessary in the enforcement of this Article. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-107)

19-5-205: CITY RESPONSIBILITIES:

- A. The City shall within three (3) business days after a licensed excavator gives notice of intent to excavate advise the excavator of the location and size of underground facilities in the proposed excavation area by marking the location of the facilities by clearly identifiable markings within eighteen inches (18") horizontally from the exterior sides of the facilities together with the depth, if known.
- B. If the information in Subsection A above is not provided within three (3) business days or such other time as agreed upon by the City and excavator or if the information provided fails to identify the facilities in accordance with subsection A above, the excavator may proceed

- B) and shall not be liable for such damage except upon proof of his negligence, and any excavator experiencing loss for damage to property, personal injury, death or other costs shall have a right of action for damages therefor against the City except upon proof of negligence of the excavator.
- C. Whenever possible the City will assist the excavator in exposing underground facilities and locating privately-owned gas, electric, water and wastewater service lines running from the main line to individual structures on private property. (Ord. 85-214)

19-5-206: CITY DEPARTMENTS TO PROCURE

PERMITS: Except as provided herein, all departments of the City, except the Street Division and Traffic Engineering Division, shall procure permits before making any excavation in any street, avenue or alley of the City. When an excavation is begun or made by reason of an emergency by said departments, it shall be the duty of such department, as soon as practicable after beginning such excavation, to report the same to the City Engineer and to procure a permit covering the work done and to be done. The City Engineer shall have the authority, when deemed advisable, to designate some person or persons in the department doing the excavating to act as inspector or inspectors over excavations made by said department. The department shall each account to the Department of Public Works any and all expenses incurred by it for filling excavations and restoring streets, avenues, alleys and traffic control devices to a condition satisfactory to the City Engineer and the departments doing the excavation shall comply with all provisions of this Part 2 relating to excavations and the manner of taking care of and filling the same, unless otherwise provided for in writing by the City Engineer. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-118.3)

19-5-207: PROTECTION OF ADJOINING PROPERTY

: All excavators shall at all times, and at his or its own expense, preserve and protect from injury and adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the excavator shall obtain written permission from the owner of such private property for such purpose.

The excavator shall, at its own expense, shore up and protect all buildings, walls, fences, utility lines or other property that may be damaged during the progress of the excavation work, and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the excavator to trench through any lawn area, said area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this Part 2. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.

The excavator shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the appropriate City department or City official having control of such property. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-109)

19-5-208: CARE OF EXCAVATED MATERIALS, CLEAN UP:

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, or where a dangerous condition may be created thereby, the City Engineer shall have the authority to require that the excavator haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the excavator's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites. Proper barricading shall be set up and maintained in accordance with the latest edition of the Manual on Uniform Traffic Control Devices. (MUTCD).

All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the City Engineer. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, tow boards or binds may be required by the City Engineer to prevent the spreading of dirt into traffic lanes.

The maximum length of open trench permissible at any time shall be not more than five hundred (500) lineal feet or no more than one block, but in any case, no greater length shall be open for pavement removal, excavation, construction, backfilling, patching and all other operations without the prior written permission of the City Engineer. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-110)

19-5-209: PROTECTION OF WATERCOURSES AND VITAL STRUCTURES:

- A. The excavator shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot (1') in width from the face of such curb at the gutterline. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained.
- B. The excavator shall make provisions to take care of all surplus water, muck, silt, slickings or other run-off pumped from excavations or resulting from slicing or other operations and shall be responsible for any damage resulting from its failure to so provide.
- C. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, traffic signal controllers, valve housing structures, and all other vital equipment as designated by the Department of Public Works. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-111)

19-5-210: BREAKING THROUGH PAVEMENT:

- A. Heavy duty pavement breakers may be prohibited by the Department of Public Works when the use endangers existing substructures or other property.
- B. All existing concrete that is within the public right of way such as sidewalks, driveways, curb and gutter and cross pans shall be saw cut if removal is called for and in the case of cross gutters or driveways, dowels may be required by the Department of Public Works.
- C. Approved cutting of bituminous pavement

- C) surface ahead of excavations may be required by the Department of Public Works to confine pavement damage to the limits of the trench.
- D. Sections of sidewalks, curb and gutter shall be removed to the nearest score line or joint.
- E. Unstable pavement shall be removed over caveouts and overbreaks and the subgrade shall be treated as the main trench.
- F. Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench by using saw cut method prior to patching. Patching shall conform to current City specifications.
- G. Cutouts outside of the trench lines must be normal or parallel to the trench line for all laterals and services. Valve casings are excluded.
- H. Boring or other methods to prevent cutting of pavement may be required by the Department of Public Works.
- I. The excavator shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case excavator shall remove and pave the area. Patching shall be in accordance with current City specifications and shall conform to line and grade of existing surface.
- J. Any cuts in a paved or overlaid street that is less than three (3) years old shall require a special application from the licensee to the Department of Public Works. The application shall state why said new street must be cut. If permission is granted, the Department of Public Works will require a six inch (6'') concrete slurry mix to be placed in lieu of base course if the cut is equivalent of one hundred (100) square feet or less.
- K. All laterals from a main trench on a street that is less than three (3) years old or overlaid within three (3) years of date of application for street cut shall be repaired with a six inch (6'') concrete slurry mix in lieu of base course. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-112)

19-5-211: WORK PROCEDURES AND OPERATIONS:

- A. Each excavator shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The excavator shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris. No excavations shall be permitted between the hours of eight o'clock (8:00) P.M. and seven o'clock (7:00) A.M. except with the express written permission of the Department of Public Works or Department of Utilities or in case of an emergency as herein otherwise provided.

- B. Prior to opening an excavation in a public place, it shall be the duty of the excavator to determine whether underground facilities; i.e., sewer, telephone, water, fuel, electric lines, underground traffic signal cables, cable television, etc., will be encountered, and if so, where such underground facilities are located. No excavator, his employee or agent, any subcontractor of the excavator, or any other person shall commence any excavation unless and until information regarding facilities has been requested and obtained detailing the status of the public place in question not more than five (5) working days prior to the excavation.

If emergency conditions make such action impossible, the excavator shall make reasonable efforts to obtain information concerning the existence and location of facilities prior to beginning excavation, by notifying the appropriate City department or other public or private entity of the date on which excavation will commence and requesting that information regarding the existence and location of facilities. Nothing contained herein shall, however, relieve the excavator or any other person from the duty to obtain more current information where circumstances are such that he knew or reasonably should have known that such action was appropriate.

- C. When the excavation approaches the estimated location of such facility, the exact location shall be determined and reasonable precautions, to include hand digging at the estimated location, shall be taken in uncovering the facility and

- C) when it is uncovered, proper support shall be provided for the existing facility. Utility companies, traffic engineering division, telephone company, cable television company and any other company having underground facilities shall be contacted and advised of proposed work five (5) days prior to the start of actual excavation.

- D. It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain such barriers, warning devices and routing signs necessary for safety as specified by the Manual on Uniform Traffic Control Devices (MUTCD). (Ord. 74-56; Ord. 85-214; 1968 Code § 10-116)

19-5-212: DEPTH OF STRUCTURES: No person shall, without written permission of the Department of Public Works, install any substructure, except manholes, vaults, valve casings, culverts and catch basins at a vertical distance less than:

- A. Streets. Twenty four inches (24") below the established flow line of the nearest gutter. If said flow line is not established, and a design is not available, then the depth shall be a minimum of twenty four inches (24") below the surface of the nearest outermost edge of the traveled portion of the street.

- B. Parkway.

1. The minimum depth of any substructure shall be sixteen inches (16") below established gutter grade when said substructure parallels the parkway, said depth to mean the top of the structure or minimum cover.

2. The minimum depth of any substructure shall be twelve inches (12") below the top of the established sidewalk or top of curb section when such substructure is at right angles to the parkway, said depth to mean minimum cover.

- C. Other Public Places. The minimum depth of any substructure in any other public place shall be twelve inches (12") below the surface; provided, however, that the Department of Public Works may permit a lesser depth in special cases.

Nothing in this Section shall impose a duty upon

- C) the excavator to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of, or travel on, a public street. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-113)

19-5-213: **BACKFILLING REQUIREMENTS:**

Backfilling shall be in accordance with current City Standard Specifications. The Department of Public Works may require soil tests at its discretion to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Department of Public Works. All expense of such tests shall be borne by the excavator. In any event, the applicant shall be responsible for any trench failure for a one year period. Testing shall be required on all streets less than three (3) years old or that have been overlayed within three (3) years, and also when called for by the Department of Public Works, and will be so noted on the permit when returned for patching. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-114)

19-5-214: **RESTORATION OF SURFACE:**

Permanent resurfacing of excavations can be made by the Department of Public Works at the expense of the excavator if requested on the application. The excavator shall provide that the top surface of the compacted backfill be covered with two inches (2") of bituminous temporary resurfacing material, before the trench is opened to traffic. Such temporary paving material may be cold mix. All temporary paving material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it as well as for vehicular traffic to pass safely over it at a legal rate of speed. The excavator shall maintain temporary paving for a period not exceeding thirty (30) days after all backfilling is completed.

If it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the excavator shall maintain barriers and lights where required herein, in accordance with the current manual on Uniform Traffic Control Devices. The excavator shall notify the Department of Public Works that the trench is ready for permanent resurfacing by returning one copy of the permit form.

In the case of failure or settlement of any repaired or new excavation made by the excavator which in the opinion of the Department of Public Works endangers the safety of the pedestrian or motoring public, the excavator shall cause emergency repairs or barricading to be made within two (2) hours after notification. Should the excavator fail to cause the emergency repairs or barricading to be accomplished within the specified time limit, the City will cause the emergency repairs or barricading to be accomplished and will bill the responsible party for the cost thereof with a minimum charge per trip to be twenty five dollars (\$25.00), with an additional charge for barricades that remain over twenty four (24) hours. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-115)

19-5-215: REROUTING OF TRAFFIC: The excavator shall take appropriate measures to cause as little inconvenience as possible to the general public by proper routing of traffic through or around the construction area. The Department of Public Works may permit the closing of streets and alleys to all traffic for a period of time, if in its opinion it is necessary, and this shall be stated on the application form.

When determined by the Department of Public Works that conditions exist which require the manual direction or control of vehicular or pedestrian traffic, it shall be the responsibility of the excavator to provide such off-duty officer or flagmen as may be necessary for as long as may be necessary to effect such control. The number of officers or flagmen and the duration of their duty shall be determined by the Department of Public Works. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-116)

19-5-216: RELOCATION AND PROTECTION OF UTILITIES: The excavator shall not interfere with any existing facility without presentation of written consent from the owner of the facility to the Department of Public Works. If it becomes necessary to relocate an existing facility, this shall be done by its owner or under the owner's supervision or with the owner's written consent. No facility owned by the City shall be moved to accommodate the excavator unless the cost of such work be borne by the responsible party. The cost of moving privately owned facilities shall be similarly borne by the excavator unless it makes other arrangements with the person owning the facility. The excavator shall support and protect by timers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do

everything necessary to support, sustain and protect them under, over, along or across said work. The excavator shall secure approval of method of support and protection from the owner of the facility. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the excavator shall promptly notify the owner thereof. All damaged facilities shall be repaired equal to or better than the original condition by the agency or person owning them or under their supervision or with the owner's written consent and the expense of such repairs shall be charged to the excavator. It is the intent of this paragraph that excavator shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage, and such assumption of liability is a contractual obligation of the excavator until such time as repairs of damage have been made and accepted by the owner of the facility. The excavator shall inform itself as to the existence and location of all underground facilities and protect the same against damage. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-117)

19-5-217: PROMPT COMPLETION OF WORK:

After an excavation is commenced, the excavator shall proceed with diligence and expedite all excavation work covered by the excavation permit and shall promptly complete such work and restore the street and any traffic control devices to their original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary. Adverse weather conditions shall be cause for reasonable delay in prompt completion of work.

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Department of Public Works may include the requirement, at the time the permit is granted, that a crew of men and adequate facilities be employed by the excavator twenty four (24) hours a day to the end that such excavation work may be completed as soon as possible. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-118)

19-5-218: PRESERVATION OF MONUMENTS:

Any monument set for the purpose of lo-

cating or preserving the lines of any street or property or subdivision, or a precise survey reference point, or a permanent survey bench mark within the City, shall not be removed or disturbed without first obtaining permission in writing from the Department of Public Works so to do. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of the monument by the Department of Public Works. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-118.1)

19-5-219: ADDITIONAL SPECIFICATIONS: In addition to the provisions of this Section, any excavation shall be in accordance with current Department of Public Works Standard Specifications. (Ord. 74-56; Ord. 85-214; 1968 Code § 10-118.2)

*CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS***ARTICLE 5 STREETS AND PUBLIC WAYS***PART 3 MISCELLANEOUS OFFENSES*

SECTION:

19-5-301: Spilling of Salt or Petroleum Products

19-5-301: **SPILLING OF SALT OR PETROLEUM**

PRODUCTS: No unauthorized person shall pour, spill or permit to be poured or spilled or to drip or flow upon, or deposit or place in any receptacle or container upon any asphalt or bituminous macadam or curb, gutter or sidewalk, or about any tree or shrub on any street, avenue, alley or public place in the City, any salt or salt water, or any kerosene, benzene, gasoline, lubricating oil, or other similar oil or oily substance. Provided, however, that the ordinary and natural drip from vehicles and their axels, bearings and equipments, when the same are carefully handled and operated, is allowed. (Ord. 1125; 1968 Code § 10-79)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 6 SIDEWALKS

PART 1 CONSTRUCTION AND MAINTENANCE

SECTION:

- 19-6-101: Definition
- 19-6-102: Sidewalks to Conform to Grade
- 19-6-103: Responsibility of Adjacent Property Owners
- 19-6-104: Notice to Repair; Procedure
- 19-6-105: Irrigation Boxes Crossing Sidewalk
- 19-6-106: Gates Over Sidewalk or Alley

19-6-101: DEFINITION: Within that part of the streets and avenues of the City which lie between the property line and the curb shall be a sidewalk. Any public right of way, between property lines, which provides pedestrian access to adjacent properties, platted as a mid-block walkway, shall be deemed a sidewalk for purposes of this Chapter. Sidewalks shall be constructed in accordance with the City Standard Specifications. (Ord. 3587; 1968 Code § 12-13)

19-6-102: SIDEWALKS TO CONFORM TO GRADE: No sidewalk, curb or gutter shall be constructed until the proper line and grade for the same shall have been approved by the City Engineer, and the same shall be constructed in accordance with the lines and grades approved by said Engineer and subject to his superintendence, direction and control. It shall be unlawful for any person to construct, or cause to be constructed, any sidewalk, curb or gutter in any different manner than is provided for in this Section or upon any line or grade different from that established by the City Engineer. If any sidewalk, curb or gutter shall be constructed at a line or grade other than as established or approved by the City Engineer, the City Engineer shall direct the responsible person to cause such sidewalk, curb or gutter to be taken up and relaid at his own expense within a reasonable time. If the responsible person shall fail or refuse to relay the sidewalk to the proper line and grade, the City Engineer is authorized to do so, using City work forces or by contract, and all costs may be charged

to the responsible party. If the responsible party fails to pay such costs and charges within thirty (30) days after billing is mailed, the same shall be assessed to the abutting property in the manner and with the effect provided in Article 1 of Chapter 7 of this Code. (Ord. 753; 1968 Code § 12-12; 1980 Code)

19-6-103: RESPONSIBILITY OF ADJACENT PROPERTY OWNERS:

- A. **Cleaning and Repairing of Sidewalks.** Every owner of property within the City shall keep and maintain the sidewalks which abut upon their property in a clean, safe condition and in a good state of repair, free from holes, projections and obstructions. The said owner shall be primarily liable and also shall be held primarily responsible to any person who may be injured or damaged in consequence of and by reason of failure to keep and maintain said sidewalks in a clean, safe condition and in a good state of repair free from holes, projections and obstructions as aforesaid. (Ord. 2452; 1968 Code § 10-83)
- B. **Cleaning Sidewalks and Gutters.** The owners or agents of the owners of vacant lots, and the owners or agents or occupants of houses, warehouses, stores or tenements and grounds belonging thereto or occupied by them, shall keep the sidewalks in front of and adjoining such property clean and free of all debris and litter. (Ord. 812; 1968 Code § 10-84)

19-6-104: NOTICE TO REPAIR; PROCEDURE:

No property owner shall be entitled to any notice from the City or its agent of the necessity for repairs to or reconstruction of any sidewalk abutting upon his property as a prerequisite to the duty of making such repairs by such property owner.

The City Engineer may cause notice of the need for repairs or reconstruction of any sidewalk to be served upon the owner of the property upon which said

sidewalk abuts. Such notice shall be in writing and may be addressed to such owner at the address of said property. If said repairs or reconstruction shall not be made within thirty (30) days after the mailing or delivery of said notice, the City may cause said repairs or reconstruction to be made either by its own forces or by private contractor and bill the cost of said repairs or reconstruction to the abutting owner. If the owner fails to pay such costs and charges within thirty (30) days after billing is made the same shall be assessed to the abutting property in the manner and with the effect provided in Article 1 of Chapter 7 of this Code.

Upon determination in writing by the Director of Public Works that said sidewalk dislocation, breakage, projections or obstructions or other cause for repair or reconstruction is caused directly or indirectly by tree or tree roots within the parking area between said sidewalk and the curb or paved or traveled portion of the street, the owner may cause said reconstruction or repairs to be accomplished by private contractor and within the limits of funds available therefor, the City will reimburse him for one-half (½) the cost thereof, provided such cost does not exceed the amount per square foot as determined by the Director of Public Works to reflect the prevailing cost index therefor. (Ord. 2452; 1968 Code § 10-91)

19-6-105: IRRIGATION BOXES CROSSING

SIDEWALK: It shall be the duty of any and all persons owning or in charge of any premises having boxes for irrigation crossing the sidewalk abutting said lot or premises, to keep said boxes securely covered. It shall be unlawful for any owner, agent or person in charge of such premises to fail or refuse to keep such box or boxes securely covered. (Ord. 2452; 1968 Code § 10-88)

19-6-106: GATES OVER SIDEWALK OR

ALLEY: It shall be unlawful for any owner, agent or person in charge of premises to cause or permit any gate, door or similar structure to remain open, over or across any alley or sidewalk of this City, so as to interfere in any manner with the free use of the alley or sidewalk. (Ord. 2452; 1968 Code § 10-89)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 6 SIDEWALKS

PART 2 SNOW REMOVAL

SECTION:

- 19-6-201: Snow Removal Required; Time Limits
- 19-6-202: Assess Cost of Removal
- 19-6-203: Procedure for Assessment and Notice
- 19-6-204: Snow Fund
- 19-6-205: Penalty

19-6-204: **SNOW FUND:** All moneys received by the City Treasurer under the provisions of this Part 2 shall be credited to the fund or funds out of which the expense of such snow removal was paid. (Ord. 935; 1968 Code § 10-95)

19-6-205: **PENALTY:** The remedy provided in this Part 2 is cumulative and the fact that an assessment has been made as herein provided shall not prevent the owner, occupant, agent or lessee from being prosecuted for a violation of the ordinances of the City. In the event of conviction a penalty as provided by Article 2 of Chapter 1 of this Code may be imposed upon any person found guilty of violating the provisions of any other ordinance of the City relating to the removal of snow from sidewalks the same as if said assessment had not been made or paid. (Ord. 935; 1968 Code § 10-96)

19-6-201: **SNOW REMOVAL REQUIRED; TIME LIMITS:** It shall be unlawful for the owner, occupant or agent for any lot, parcel or tract of land to permit snow to remain on the sidewalk upon which such lot, parcel or tract of land abuts for a period exceeding twenty four (24) hours after the termination of the falling snow. The obligation imposed by this Section shall extend to the center line of such walkway in regard to a midblock walkway. (Ord. 3587; 1968 Code § 10-92)

19-6-202: **ASSESS COST OF REMOVAL:** If at the end of such twenty four (24) hour period such snow has not been removed from the sidewalk, the Director of Public Works may cause the same to be removed and bill the entire cost thereof, including the cost of inspection and other incidental costs in connection therewith, upon the lot, parcel or tract of land abutting upon said sidewalk. (Ord. 3587; 1968 Code § 10-93)

19-6-203: **PROCEDURE FOR ASSESSMENT AND NOTICE:** At least once a year the Director of Public Works shall compile all unpaid billings for snow removal and, in compliance with Article 1 of Chapter 7 of this Code, shall institute proceedings thereunder leading to the assessment of the charges against the individual properties benefited by the removal of snow. Several assessments may be included in a single ordinance. (1980 Code)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 6 SIDEWALKS

PART 3 OBSTRUCTIONS

SECTION:

19-6-301: Loading on Sidewalks

19-6-302: Storage on Sidewalks

19-6-301: **LOADING ON SIDEWALKS:**¹ It shall be unlawful for any person, while receiving or delivering goods, wares, merchandise or baggage to permit the same to remain on any sidewalk, or in any alley longer than is necessary to convey such articles to or from the premises abutting on such sidewalk or alley, or to or from which such articles are being delivered or received, and for this purpose to occupy over four feet (4') of the outer edge of the sidewalk. (Ord. 921; 1968 Code § 10-97)

19-6-302: **STORAGE ON SIDEWALKS:**² It shall be unlawful for any person to use any street, alley or sidewalk for the storage of goods, wares or merchandise of any kind or description whatever. (Ord. 921; 1968 Code § 10-98)

1. For regulations relating to the parking of vehicles for loading purposes, see Chapter 22, Article 14 of this Code.
2. For further provisions, see the Building Code, Chapter 16 of this Code.

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 1 IMPROVEMENTS NEEDED

SECTION:

- 19-7-101: Purpose
- 19-7-102: Definitions
- 19-7-103: Council Authorized to Make Improvements
- 19-7-104: Procedures
- 19-7-105: Petition, Procedures, Limitations
- 19-7-106: Adopt Plans and Specifications
- 19-7-107: Notice to be Published
- 19-7-108: Failure to Receive Notice
- 19-7-109: Separate Designations Unnecessary
- 19-7-110: Council May Order Utility Connections; Alternative Procedure
- 19-7-111: Commence Actions Against Proceedings
- 19-7-112: Officers Authorized to Take Action
- 19-7-113: Provisions Superseded
- 19-7-114: Liability During Construction of Public Improvements

19-7-101: PURPOSE:

- A. The purpose of this Article is to provide a procedure for special improvement projects for a designated area or district within the City.
- B. This Article being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to effect its purposes. (Ord. 74-108; 1968 Code § 12-101)

19-7-102: DEFINITIONS:¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

ACQUIRE or ACQUISITION: The establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the State or Federal government, any public body or person, endowment, bequest, devise, condemnation,

transfer, assignment, option to purchase, other contract or other acquirement or any combination thereof of facilities, or any interest therein, herein authorized.

ASSESSABLE PROPERTY or ASSESSABLE TRACT: The tracts of land specially benefited by any project the cost of which is wholly or partly defrayed by the levy of assessments.

ASSESS or ASSESSMENT: A special assessment, or the levy thereof, against any tract specially benefited by any project to defray wholly or in part the cost of the project, which assessment shall be made on a front-foot, zone, subzone, area or other equitable basis as may be determined by the Council. Council may take into account zoning, present or intended use, current assessed and market value and location or proximity to the project.

ASSESSMENT LIEN: A lien on a tract created by ordinance of the City to secure the payment of an assessment levied against that tract.

BOND: A special obligation payable from special assessments and any other special fund authorized by law.

COST or COST OF THE PROJECT: All or any part designated by the Council of the cost of any public improvement, or interest therein, being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the City to be necessary or useful and convenient therefor or in connection therewith, which cost, at the option of the Council, may include all or any part of the incidental costs pertaining only to the project, including, without limiting the generality of the foregoing, preliminary expenses advanced by the City from funds available for use therefor in the making of studies, surveys, preliminary plans, estimates of cost, assessment plats, other preliminaries, the costs of appraising, printing, employing engineers, professional consultants, architects, attorneys at law, clerical help, other

¹ For definitions of general application, see Section 1-1-203 of this Code.

agents or employees, the costs of capitalizing interest or any discount, or both interest and discount, on any bonds, of inspection, of any administrative and other expenses of the City appertaining to the project and becoming due prior to the levy and collection of special assessments, and of replacement expenses or for payment or security of principal or interest on any securities, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments, the levy and collection of special assessments and installments thereof, the costs of reimbursements by the City to any public body, the Federal government, or any person of any moneys therefor expended for or in connection with any such facility or project, and all other expenses necessary or desirable and appertaining to any public improvement, as estimated or otherwise ascertained by the Council.

DISTRICT: The geographical area within the City designated and delineated by the City Council as a special improvement district, in which the project is located and in which each tract to be assessed therefor is situated. A district may consist of noncontiguous tracts.

ENGINEER: The City Engineer, or a firm of design, engineering or architectural professional consultants whose surveys, plans and specifications are accepted by the City Council, whether such consultants are employed by the City, another governmental agency or a private person or organization, in connection with any facility, property, project or power herein authorized.

OWNER: In reference to petitions, means only persons in whom the record fee title is vested, although subject to lien or encumbrance.

PAVING: Includes repaving, macadamizing and remacadamizing.

REAL PROPERTY:

A. Land, including land under water and airspace over land;

B. Buildings, structures, fixtures and improvements on land;

C. Any property appurtenant to or used in connection with land; and

D. Every estate, interest, privilege, easement, franchise, and right in land, legal or equitable, including, without limiting the generality of the foregoing, rights of way, terms for years, and liens; charges or encumbrances by way of judgment, mortgage, or otherwise; and the indebtedness secured by such liens.

SECURITIES: Any bonds, temporary bonds, interim warrants, or other obligations of the City appertaining to any project or interest therein, herein authorized.

SPECIAL SURPLUS AND DEFICIENCY FUND: The special account and special fund created and maintained with moneys remaining to the credit of a district when all outstanding bonds of the district have been paid, pursuant to Section 43, Article VII of the City Charter and to Sections 19-7-502, 19-7-510 and 19-7-805 of this Code.

STREET: Includes avenues, boulevards, alleys and other highways.

STORM DRAINS: Includes mains, conduits, pipes, retention reservoirs, open ditches, channels, restricted channels or drainage areas and other appropriate facilities for storm drainage.

TRACT: Any tract, lot or other parcel of land for assessment purposes, whether platted or unplatted, regardless of lot or land lines. Lots, plots, blocks and other subdivisions may be designated in accordance with any recorded plat thereof; and all lands, platted and unplatted, shall be designated by a definite description, as provided herein. (Ord. 74-108; 1968 Code § 12-101)

19-7-103: COUNCIL AUTHORIZED TO MAKE IMPROVEMENTS: The City Council shall have the power to contract for and make local improvements, or by itself to make local improvements, sometimes called public improvements, and to assess the costs thereof, all or in part, against the property especially benefited, as provided in this Chapter. All contracts for public improvements shall be awarded by the City Council in accordance with the specifications adopted by it, and such improvements may be made, all or in part, under independent contract or by the City. (Ord. 2771; 1968 Code §§ 12-17, 12-18)

19-7-104: PROCEDURES:

- A. All proceedings to improve streets, alleys and public highways and parts thereof by construction or reconstruction, replacement, renewal or extension within the City by:

Paving or surfacing with suitable material,

Grading,

Curbing,

Guttering,

Storm drains,

Wastewater sewers,

Water mains and lines,

Sidewalks

Otherwise improving the whole or any part or parts of any street or streets, alley or alleys, or streets and alleys, which need not be connected or contiguous in the City,

Or any combination of said improvements, including necessary grades, crosswalks, curbs, drains, readjusting manholes, catchbasins and such other incidentals, including storm drains, wastewater sewers or water mains and lines or any combination thereof incidental to paving, as the City Council may prescribe,

may be begun by the adoption by the City Council of a resolution, (or by the filing of a petition),¹ which resolution shall state the nature and location of the improvement or improvements to be made without mentioning minor details or incidentals, and describe the local improvement district to be assessed by boundaries or other brief description and direct the engineer to prepare and present to the Council:

1. Preliminary plans and specifications for such improvement or improvements;

- A) 2. An estimate of the probable total cost thereof, including, without limiting the generality of the foregoing, the cost of constructing or otherwise acquiring such improvement or improvements, engineering and clerical service and supplies, cost of inspection, cost of collection assessments, advertising, printing, interest on bonds until interest on assessments is available to defray such fiscal services, legal services for preparing proceedings and advising in regard thereto, and other incidental costs; and
3. A map of the local improvement district to be assessed. (Ord. 2786; 1968 Code § 12-19)
- B. Any estimate of cost required or authorized in this Article shall not constitute a limitation upon such cost nor a limitation upon the rights and powers of the City Council or of any officers, agents or employees of the City, except as herein otherwise specifically stated. (Ord. 2771; 1968 Code § 12-19)
- C. Whenever necessary, rights of way for streets and alleys may be purchased or condemned by the City and the cost charged to the district. (1980 Code)

19-7-105: PETITION, PROCEDURES, LIMITATIONS: A public work or improvement, the costs of which in whole or in part are to be assessed by the City, may be initiated on petition of property owners, as follows:

The owner or owners of a three-fourths ($\frac{3}{4}$) majority of the frontage, of the area or of whatever other measurement constituting the basis for computation of assessments is therein provided of the assessable property, may, by written petition to be submitted no later than October 31 of the year preceding the acquisition of the proposed improvement or public work, initiate the acquisition of any improvement which the City Council is authorized to initiate, subject to the following limitations:

- A. The Council may incorporate such improvement in any improvement district or districts initiated pursuant to Section 19-7-103.
- B. The Council need not proceed with the acquisition of any such improvement or any

1. Petition procedures are set out in Section 19-7-105 of this Article.

- B) part thereof after holding a hearing thereon pursuant to Part 2 of this Article if the Council shall determine that it is not in the public interest that the proposed project or a part thereof be made.
- C. Any particular kind of improvement, or any material therefor, or any part thereof, need not be acquired or located, as provided in the petition, if the Council shall determine that such is not for the public interest.
- D. The Council need not take any proceedings or action upon receiving any such petition if the Council shall thereupon determine by resolution that the acquisition of the designated improvement probably is not feasible for a reason or reasons stated in such resolution. Alternatively, the resolution may require a cash deposit or a pledge of property in at least an amount or value therein designated to be probably sufficient to defray the expenses and costs of the acquisition of the improvement designated in the petition. If such deposit or pledge is not made with the City Treasurer within twenty (20) days after one publication in a newspaper of general circulation in the City of a notice of the resolution's adoption and of its content in summary form, then the acquisition shall not proceed. An additional deposit or pledge may from time to time be similarly so required as a condition precedent to the continuation of action by the City. Whenever such deposit or pledge is so made and thereafter the Council shall determine that such acquisition is not feasible within a reasonable period of time, the Council may require that all or any portion of the costs theretofore incurred in connection therewith by the City after its receipt of the petition shall be defrayed from such deposit or the proceeds of such pledged property. (Ord. 2771; Ord. 81-195; 1968 Code § 12-20)

Upon the filing of such a petition, the City Council shall proceed in the same manner as is provided for by this Chapter where proceedings are initiated by the City Council. (Ord. 2771; 1968 Code § 12-21)

19-7-106: **ADOPT PLANS AND SPECIFICATIONS:**

- A. The City Council shall by resolution adopt the

- A) preliminary plans and specifications and the map of the engineer for the proposed improvement and shall prescribe:

1. The extent of the local improvement district to be assessed (by boundaries or other brief description);
2. The kind of improvement or improvements proposed (without mentioning minor details);
3. The number of installments and the time in which the cost of the improvement or improvements will be payable;
4. The probable cost as shown by the total estimate of the engineer, which estimate shall not constitute a limitation upon the cost of the project nor for any other purpose;
5. The amount or proportion of the total cost to be paid by other than special assessments, if any;
6. The method of levying assessments; and
7. The approximate amount or share of the portion of said total estimate to be assessed against property specially benefited by the acquisition of the improvement or improvements proposed.

- B. In that same resolution the Council shall fix a time and place for hearing within thirty (30) days after the adoption of the resolution. (Ord. 2771; 1968 Code § 12-22)

19-7-107: **NOTICE TO BE PUBLISHED:** The City Clerk shall cause a notice to be published for one day in a daily newspaper of general circulation in the City not less than ten (10) days prior to the hearing. The notice shall be addressed to the owners of assessable property in the local improvement district and to all persons interested, generally, and without naming such owners or persons, of:

- A. The kind of improvements proposed (without mentioning minor details or incidentals);
- B. The number of installments and time in which the cost of the improvements will be payable;
- C. The maximum rate of interest on unpaid installments;

- D. The extent of the district to be assessed (by boundaries or other brief description);
- E. The time when the City Council will consider the ordering of the proposed improvements and hear all complaints, remonstrances and objections that may be made in writing concerning the same, by the owner of any real property to be assessed or any person interested; and
- F. The fact that all proceedings in the premises are on file and can be seen and examined at the office of the City Clerk during business hours, at any time, by any person so interested. (Ord. 2771; 1968 Code § 12-23)

19-7-108: FAILURE TO RECEIVE NOTICE:

- A. Whenever any notice is mailed, as required in this Article, the fact that the person to whom it was addressed does not receive it shall not in any manner invalidate or affect the proceedings herein provided for. (Ord. 2771; 1968 Code § 12-88)
- B. The City Council hereby finds, determines and declares that the giving of notice in accordance with Sections 19-7-107, 19-7-202 and 19-7-702 of this Article is reasonably calculated to inform the owners of property to be assessed of the hearings provided for in this Article, and that the giving of any further notice is impractical and unnecessary to the assurance of due process of law to such property owners. (Ord. 2771; 1968 Code § 12-89)

19-7-109: SEPARATE DESIGNATIONS UNNECESSARY:

In all proceedings and notices authorized by this Article, figures may be used instead of words and it shall not be necessary in an improvement district to designate each piece of real estate in the district separately but general description and quantities may be used except in the assessment rolls, and except in assessments any cost stated may be stated as being a probable amount per front foot, or per square foot, or per lot of a given size and proportionate amounts for other lots, or when a different method of assessment is provided, then as being subject to such method. (Ord. 2771; 1968 Code § 12-90)

19-7-110: COUNCIL MAY ORDER UTILITY CONNECTIONS; ALTERNATIVE PROCEDURE:

If the connection of abutting properties to gas or water mains or wastewater sewers is not included as a part of a public improvement district for the paving of any street or alley, before paving any district in pursuance of this Chapter, the City Council may order the owners of the abutting real estate to connect their several premises with the gas or water mains or wastewater sewers, or with any other utilities in the street or alley adjacent to their several premises. On default of the owners for thirty (30) days after the order to make such connections, the Council may contract for and make the connections in accordance with such specifications as may be prescribed by the Council and the whole cost of each connection shall be assessed against the premises with which the connection is made. Any number of such connections may be included in one contract and notice shall be given to the owner of the property to be assessed as is provided for the giving of notice for the construction of sidewalks as provided for in this Chapter, but the cost shall be paid upon the completion of the work, and in one sum, and shall not be subject to remonstrance. The cost shall be collected in the same manner as is provided in this Chapter for the collection of assessments for sidewalks, and upon default in the payment of any assessment, real estate may be assessed in like manner and with like effect, or suit may be brought for the collection of the cost. (Ord. 2771; 1968 Code § 12-86)

19-7-111: COMMENCE ACTIONS AGAINST PROCEEDINGS:

All actions, legal or equitable, for relief against any proceedings had under this Chapter whether based upon irregularities or jurisdictional defects, shall be commenced within thirty (30) days after the wrongful act complained of, or else be thereafter perpetually barred. (Ord. 2771; 1968 Code § 12-91)

19-7-112: OFFICERS AUTHORIZED TO TAKE ACTION:

The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Chapter. (Ord. 2771; 1968 Code § 12-92)

19-7-113: **PROVISIONS SUPERSEDED:** C.R.S. 1973 § 31-20-106 is superseded. (Ord. 3631; 1968 Code § 12-94)

19-7-114: **LIABILITY DURING CONSTRUCTION OF PUBLIC IMPROVEMENTS:** When any contractor, subdivider or any person other than the departmental forces of the City, commences the construction of any public improvement whatsoever, public liability for the condition and maintenance of such public improvement shall be that of the contractor, subdivider, or such other person undertaking construction thereof until such public improvement, upon completion, shall have been inspected by the Department of Public Works for compliance with City specifications, and accepted by the City; provided, however, that nothing herein shall be construed to limit the liability of the City, its employees or agents, for its or their own acts in regard to any such improvement between commencement of contracts and acceptance by the City. (Ord. 4020; 1968 Code § 12-95)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 2 HEARINGS AND OBJECTIONS

SECTION:

- 19-7-201: Public Hearing, Owners to File Objections
- 19-7-202: City Clerk to Provide Objection Blanks
- 19-7-203: Objections Waived
- 19-7-204: Council May Stop Proceedings
- 19-7-205: Improvements Authorized Over Objections
- 19-7-206: Legality of Objections
- 19-7-207: Proceedings Modified, Limitations
- 19-7-208: Engineer to Prepare and Present Modifications
- 19-7-209: Council to Credit for Existing Improvements
- 19-7-210: Council Finding, Conclusion; Property Owner Appeal
- 19-7-211: File Complaint Against Owner, Service of Process

19-7-201: PUBLIC HEARING, OWNERS TO FILE OBJECTIONS: On the date fixed for the public hearing on proposed local improvements, any and all property owners interested in the improvements may appear in person and be heard. Any property owner who wishes to object to such improvements shall no later than noon of the preceding day of the date fixed for the hearing file with the City Clerk his objections or protests to the proposed improvements upon a blank to be furnished by the City Clerk and to be in the form provided in Section 19-7-202 below. The City Council may adjourn the hearing from time to time. (Ord. 2771; Ord. 83-72; 1968 Code § 12-24)

19-7-202: CITY CLERK TO PROVIDE OBJECTION BLANKS: The blanks on which the property owners interested in any proposed improvements shall designate their objections shall provide a place for the property owner interested to designate his objection and a space in which such property owner may state his reasons or other remarks concerning his objection and a place for the

signature of the property owner. The City Clerk shall address to each property owner to be affected by the proposed improvements one such blank and a written notice containing the same information as the notice required by Section 19-7-105 hereof, at least ten (10) days before the date fixed for the hearing provided for in Section 19-7-201; such addresses and owners being those appearing on the real property assessment rolls for general (ad valorem) taxes of El Paso County, Colorado. Property owners or other persons to be affected by the proposed improvements in the event they do not receive a blank or a written notice addressed to them by the City Clerk may secure either or both by calling in person or by their duly authorized agent at the office of the City Clerk.¹ (Ord. 2771; 1968 Code § 12-25)

19-7-203: OBJECTIONS WAIVED: Any objection to the regularity, validity and correctness of the proceedings prior to the date of said hearing shall be deemed waived unless presented in writing in substantially the same form, at the time, and in the manner herein specified. (Ord. 2771; 1968 Code § 12-26)

19-7-204: COUNCIL MAY STOP PROCEEDINGS: After the hearing, if the City Council shall determine that the local improvement is not for the public interest and that the proposed improvements or any part thereof, should not be made and paid for either out of the General Fund or by any method of assessment, it shall make an order to that effect and thereupon the proceedings for the improvements, or the part thereof determined against by the order, shall stop. (Ord. 2771; 1968 Code § 12-27)

19-7-205: IMPROVEMENTS AUTHORIZED OVER OBJECTIONS: Said improvements, or any part thereof, may be authorized and made over any protest or written remonstrance after the Council shall have found and declared by a vote of at least six (6) of its members that the public

¹. As to effect of an owner's failure to receive such blanks or "ballots", see Section 19-7-108 of this Chapter.

interest requires the making of said improvements or any part thereof. (Ord. 2771; 1968 Code § 12-28)

19-7-206: LEGALITY OF OBJECTIONS:

Whenever an objection or a remonstrance of a property owner or owners against public improvements purported to be executed under the authority of this Chapter is filed with the City Council, the Council shall canvass the same and determine whether or not the remonstrance is legally sufficient under the requirements of this Chapter. Such determination shall be final and conclusive as to the legal sufficiency of the remonstrance. (Ord. 2771; 1968 Code § 12-29)

19-7-207: PROCEEDINGS MODIFIED, LIMITATIONS:

All proceedings may be modified or rescinded wholly or in part by resolution adopted by the City Council at any time prior to the passage of the ordinance adopted pursuant to Section 19-7-208 authorizing the project. No substantial change in the district, details, preliminary plans or specifications or estimates shall be made after the first publication or mailing of notice to property owners, whichever occurs first, except for the deletion of a portion of a project and property from the proposed district. The Engineer, however, shall have the right to make minor changes in time, plans and materials entering into the work at any time before its completion. (Ord. 2771; 1968 Code § 12-30)

19-7-208: ENGINEER TO PREPARE AND PRESENT MODIFICATIONS:

If after the hearing the local improvement district is modified, the City Council shall direct the Engineer to prepare and present to the Council:

- A. A revised and detailed estimate of the total cost, including, without limiting the generality of the foregoing, the cost of constructing and otherwise acquiring each proposed improvement and of each of the incidental costs, which revised estimate shall not constitute a limitation for any purpose;
- B. Full and detailed plans and specifications for each proposed improvement designed to permit and encourage competition among the bidders, if any improvement is to be acquired by contract; and

C. A revised map showing the location of each improvement and the real property to be assessed therefor.

D. Whenever an accurate estimate of cost, full and detailed plans and specifications, and map are prepared, are presented and are satisfactory to the Council, it shall adopt an ordinance prescribing:

1. The extent of the local improvement district to be assessed, if any, by boundaries or other brief description;
2. The kind and location of each improvement proposed (without mentioning minor details);
3. The amount or proportion of the total cost to be defrayed by special assessments, the method of levying assessments, the number of installments and the times in which the costs assessed will be payable. The Engineer may further revise such cost, plans and specifications and map from time to time for all or any part of any project and the ordinance may be appropriately amended prior to letting any contract or any work being done. (Ord. 2771; 1968 Code § 12-31)

19-7-209: COUNCIL TO CREDIT FOR EXISTING IMPROVEMENTS:

If at the time of the passage of the ordinance authorizing the improvements for any district, any piece of real estate in the district has the whole or any part of the proposed improvements conforming or approximately conforming to the general plan, the City Council may adopt them in whole or in part, or make the necessary changes to make them conform to the general plan, and the owner of the real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting or adapting the existing improvements. (Ord. 2771; 1968 Code § 12-38)

19-7-210: COUNCIL FINDING, CONCLUSION; PROPERTY OWNER APPEAL:

The finding of the City Council by ordinance that any improvement provided for in this Chapter was duly ordered after notice duly given, or that a petition or objection was or was not filed, or was or was not duly subscribed by the required number of owners shall be conclusive in every court or other tribunal.

Within fifteen (15) days immediately succeeding the publication of said ordinance upon its final passage, any person who has filed a written objection, as hereinabove provided, shall have the right to commence an action or suit in any court of competent jurisdiction to correct or set aside the determination of the City Council to the contrary. Any person concerned who objects to the regularity, validity and correctness of proceedings and instruments taken, adopted or made at or subsequent to said hearing and prior to the final passage of said ordinance shall also have the right so to commence such an action or suit to cure or set aside such purported irregularity, invalidity or incorrectness. Nothing herein shall be construed as not requiring any person to make any objection in writing prior to said hearing in order not to waive such objections, if the purported irregularity, invalidity or incorrectness of any matter first occurred prior to the first publication of the notice of the hearing. After the expiration of said fifteen (15) days, all actions or suits not so commenced attacking the regularity, validity and correctness of that ordinance and of all proceedings, determinations and instruments taken, adopted or made prior to said ordinance's final passage, shall be perpetually barred. Provided, however, that if an action is commenced pursuant to Section 19-7-211 hereof, any party to such action may answer and defend at the time and in the manner provided in said Section. (Ord. 2771; 1968 Code § 12-39)

19-7-211: FILE COMPLAINT AGAINST OWNER, SERVICE OF PROCESS:

At any time after the passage of an ordinance adopted pursuant to Section 19-7-208 hereof, the City may, at its discretion, direct the City Attorney to file a complaint in the District Court in and for El Paso County, Colorado, in the name of the City, against all or any of the respective owners of the tracts or parcels of land assessed or to be assessed for any improvement ordered to be made praying for a declaratory judgment. In its complaint the City shall generally allege all procedures followed in arriving at the assessment made or to be made, and the special benefits which will accrue to the tracts or parcels of land within the district by reason of the construction of said improvements. The prayer of the complaint shall be that the court confirm and validate all proceedings and each and every assessment within said district subject to the action of the Court. (Ord. 2771; 1968 Code § 12-40; 1980 Code)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 3 CONTRACTS AWARDED

SECTION:

- 19-7-301: Award Contracts; Bond
- 19-7-302: Default; Reletting Contract
- 19-7-303: City Council May Reject Bids
- 19-7-304: Conditions of Contract
- 19-7-305: Cooperation with Other Governmental Agencies
- 19-7-306: Contractor to Provide Maintenance Guarantee, Exceptions

19-7-301: AWARD CONTRACTS; BOND: All contracts for local improvements shall be awarded by the City Council to the lowest reliable and responsible bidder, after public advertisement for one day in the official newspaper of the City, the first publication to be not less than ten (10) days before bids are to be opened. The successful bidder shall post bond for the faithful performance of the contract, with good and sufficient surety. (Ord. 2771; 1968 Code § 12-32)

19-7-302: DEFAULT; RELETTING CONTRACT: Upon default in the performance of any contract provided for herein the City Council may advertise and let a contract for the uncompleted work in like manner, without further ordinance, and charge the cost thereof to the defaulting contractor on his contract. When a deficiency in such case shall occur, the City Council may advance the amount thereof out of any available fund of the City, and recover the same by suit on the original contract and bond, if any. (Ord. 2771; 1968 Code § 12-33)

19-7-303: CITY COUNCIL MAY REJECT BIDS: In all advertisements, the City Council shall reserve the right to reject any or all bids, and if all bids are rejected, may again advertise without enacting a new ordinance under Section 19-7-208. (Ord. 2771; 1968 Code § 12-34)

19-7-304: CONDITIONS OF CONTRACT: Every contract shall contain a clause to the effect that it is subject to the provisions of the Charter and of the ordinance authorizing the improvement; that, upon ten (10) days' notice, the work under the contract may, without cost or claim against the City, be suspended by the Council for substantial cause; and, that upon complaint of the owner of any of the real estate to be assessed for the improvements, that the improvement is not being constructed in accordance with the contract, the Council shall consider the complaint and thereupon make such order in the premises as may be just and the decision of the Council shall be final. (Ord. 2771; 1968 Code § 12-35)

19-7-305: COOPERATION WITH OTHER GOVERNMENTAL AGENCIES: Subject to the aforesaid but without intending by this provision to limit any powers of the City, it may enter into and carry out any contract or establish or comply with the rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the City may deem desirable or as may be requested by the United States of America, the State of Colorado, or any Federal or State agency, instrumentality or corporation or other political subdivision that may assist in the financing of any project or any part thereof. Any improvement or improvements any portion of the cost of which may be defrayed by the City by the levy of special assessments hereunder, may be acquired with the cooperation and assistance of, or under a contract or contracts let by, or with labor, or supplies and materials, or all of such furnished by, the United States of America, the State of Colorado, or any Federal or State agency, instrumentality or corporation, or other political subdivision. Advantage may be taken of any offer from any source to complete any improvement or improvements on a division of expense or responsibility. The Engineer on behalf of and in the name of the City is authorized to make any such

improvement or improvements in such a manner.
(Ord. 2771; 1968 Code § 12-36)

**19-7-306: CONTRACTOR TO PROVIDE
MAINTENANCE GUARANTEE,**

EXCEPTIONS: In all cases of paving and of the construction of curb, gutter or sidewalk the specifications and contract may provide that the contractor shall guarantee by good and sufficient corporate surety, that the paving, curb, gutter or sidewalk shall remain in good order and repair for a period up to five (5) years after construction and such assurance shall be conditioned that the contractor shall make all necessary repairs during the period stated in the contract without further charge or expense to the City or to the property owner paying for the paving, curb, gutter or sidewalk; subject, however, to the exception that if any repair shall be made necessary by an act of nature or casualty not occasioned by the act or default of the contractor, then there shall be no liability under the guarantee. (Ord. 2771; 1968 Code § 12-37)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 4 WASTEWATER SEWER AND STORM DRAINAGE IMPROVEMENTS

SECTION:

- 19-7-401: Council May Establish Sewer and Drainage Systems
- 19-7-402: Sewers and Drains Constructed as Ordered by Council
- 19-7-403: Construction of District Sewers, Designate Wastewater Sewer Districts
- 19-7-404: Sub-District Laterals
- 19-7-405: Cost of District Drains and Sewers Assessed
- 19-7-406: Construction of Submain Defined
- 19-7-407: Temporary Connection from Property Without District
- 19-7-408: Private Sewers No Expense to City
- 19-7-409: Procedure for District Sewers
- 19-7-410: City May Extend Existing Sewers
- 19-7-411: Connection to District Sewer
- 19-7-412: Invalid Assessments, Cost of Connection

19-7-401: COUNCIL MAY ESTABLISH SEWER AND DRAINAGE SYSTEMS: The City may establish and maintain wastewater sewer or storm drainage systems, which systems may be divided into districts and subdistricts, and may without creating such districts and subdistricts, include within any public improvement district such incidental water mains, storm drains and wastewater sewers as may be prerequisite to the improvements authorized in such public improvement district in order to avoid interference with street or other improvements in such district by subsequent installation of said incidental mains and sewers. (Ord. 3481; 1968 Code § 12-50)

19-7-402: SEWERS AND DRAINS CONSTRUCTED AS ORDERED BY COUNCIL: The storm drains or wastewater sewers shall be established and constructed at such time, in such locations or to such extent, dimensions and materials, and in accordance with such full details and specifications as may be prescribed by the City Council. Whenever necessary, rights of way for any

storm drains or wastewater sewers ordered by the Council may be purchased or condemned by the City and the cost charged to such district. (Ord. 2771; 1968 Code § 12-51)

19-7-403: CONSTRUCTION OF DISTRICT SEWERS, DESIGNATE WASTE-WATER SEWER DISTRICTS: In addition to any power otherwise exercisable by reason of this Chapter, the City Council may order the construction of district facilities and appurtenances for wastewater sewers for districts to be known as wastewater sewer districts; and, the construction of district facilities and appurtenances for storm drainage for districts to be known as storm drainage districts. Such districts shall be approved by ordinance passed by a vote of six (6) of the members elected to the City Council. The sewers or drains shall be constructed so as to connect, within or without the district, with some other or sufficient sewer or drain or with some natural drainage. The Council may, in its discretion, divide any of said districts into subdistricts, to be specifically named or numbered in the ordinance. If the Council divides any district into subdistricts it shall by ordinance determine which of said district sewers or drains is of special benefit to the tracts or parcels of land in the district as a whole, which sewers or drains shall be known as "district mains" and which sewers or drains are of special benefit to the tracts or parcels of land in each subdistrict, which sewers or drains shall be known as "subdistrict laterals". District mains, except as otherwise provided, shall include all submains necessary to provide outlets for all subdistrict laterals within the district.

Incidental drains and sewers authorized in Section 19-7-401 hereof may be incorporated with other public improvements in the ordinance establishing any public improvement district, and when so incorporated may be approved according to the provisions of Section 19-7-208 without the voting requirements of this Section. (Ord. 3481; 1968 Code § 12-52)

19-7-404: SUBDISTRICT LATERALS: The City Council may at the time of ordering the construction of district mains, or at any time thereafter, order the construction of subdistrict laterals in any such subdistrict, so as to connect the same with the submains or with the district mains, the same to be approved by ordinance as in the case of district mains. (Ord. 2771; 1968 Code § 12-53)

19-7-405: COST OF DISTRICT DRAINS AND SEWERS ASSESSED: The cost of district storm drains or wastewater sewers shall be assessed upon all the real estate in the district, in proportion as the area of each piece of real estate in the district is to the area of all the real estate in the district, exclusive of public highways and streets. If a district has been divided by the Council into subdistricts pursuant to Section 19-7-403 hereof, the cost of district mains shall be assessed upon all the property in the district as aforesaid and the cost of subdistrict laterals shall be assessed in like manner upon all the real estate in the subdistrict. The amount of any assessment against property of a street or other railway company within the district, including but not limited to the amount of assessments against property owned or controlled by said company as a right of way, shall be computed as aforesaid, provided, however, that the assessment shall be enforced in the same manner and to the same effect as provided in Section 19-7-603B hereof. Notwithstanding the provisions of this Section, the cost of incidental mains and sewers authorized by Sections 19-7-401 and 19-7-403 hereof, shall be assessed upon all the lots and lands abutting upon such mains and sewers in the proportion as the frontage or depth of each lot or tract of land is to the frontage or depth of all lots and tracts so abutting. An equitable adjustment in any assessment may be made as provided in Section 19-7-605 hereof. (Ord. 3481; 1968 Code § 12-54)

19-7-406: CONSTRUCTION OF SUBMAIN DEFINED: The construction of any submain may be omitted until such time as it may be required, in which case, subdistricts so left without submains shall not be assessed for any part of the cost of submains constructed along with and as a part of the sewer or drainage district. Whenever submains so omitted are required and constructed, they may be ordered as provided for other sewers, and their cost shall be assessed to the subdistricts

which are supplied with submains. (Ord. 2771; 1968 Code § 12-55)

19-7-407: TEMPORARY CONNECTION FROM PROPERTY WITHOUT DISTRICT:

Temporary connections may be made from any wastewater sewer from property lying without the districts, with the consent of the Council and upon such terms as it may require. (Ord. 2771; 1968 Code § 12-56)

19-7-408: PRIVATE SEWERS NO EXPENSE TO CITY:

Private sewers or drains connected with district sewers or drains may be constructed under such restrictions and subject to such regulations as may be prescribed by the Council, but no expense shall be incurred by the City in constructing or maintaining them. The City shall have the power by ordinance to compel the owners of any premises in any sewer or drainage district or subdistrict to connect the same with the district or subdistrict sewer or drain at their own expense. (Ord. 2771; 1968 Code § 12-57)

19-7-409: PROCEDURE FOR DISTRICT SEWERS:

In ordering the construction of district storm drains or wastewater sewers or in ordering the construction of incidental mains and sewers authorized in Section 19-7-401 hereof, and incorporated in any public improvement district, as authorized in Section 19-7-403 hereof, the Council shall proceed as provided in Section 19-7-103 of this Chapter and in all other provisions of this Chapter thereunto enabling. (Ord. 3481; 1968 Code § 12-58)

19-7-410: CITY MAY EXTEND EXISTING SEWERS:

The City may extend and maintain any existing wastewater sewer or storm drain, wherever constructed, from its outlet to any point within or without the City. Such extensions shall be established and constructed at such times, in locations within or without the City, of such extent, dimensions, material and in accordance with such full details and specifications as may be prescribed by the Council. Necessary rights of way may, upon the order of the Council, be purchased or condemned on behalf of the City, and the whole cost thereof, sewers and rights of way may be paid by the City. (Ord. 2771; 1968 Code § 12-59)

19-7-411: CONNECTION TO DISTRICT SEWER:

No lot, premises or tract in any wastewater sewer district shall be connected with the district wastewater sewer unless, before the completion of the project, a prorata share of the estimated cost shall be paid, or after completion the assessment has been paid, except that in cases where the cost of sewers is to be assessed upon property in a district and the payment therefor has been fixed by the Council to be made in installments, then connections may be made at any time when deemed advisable by the Engineer. (Ord. 2771; 1968 Code § 12-60)

19-7-412: INVALID ASSESSMENTS, COST OF CONSTRUCTION:

If in any wastewater sewer district or storm drainage district any assessment upon the lots therein for the completion of the sewer or drain has in any court of competent jurisdiction been held invalid, the owner of any lot in the district shall only be permitted to connect with such sewer or drain upon payment of such amount as may be fixed by Council. Nothing contained in this Part 4 concerning wastewater sewer districts or storm drainage districts shall be construed as applicable to wastewater sewers or storm drains constructed as an incidental part of a paving program. (Ord. 2771; 1968 Code § 12-61)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 5 PUBLIC IMPROVEMENT BONDS

SECTION:

- 19-7-501: Issuance of Bonds
- 19-7-502: Form, Payment from Assessments
- 19-7-503: Bonds Not Debt of City
- 19-7-504: Bonds Not Invalid Due to Defect
- 19-7-505: Bond Maturities
- 19-7-506: Bonds Negotiable
- 19-7-507: Bonds, Registration, Change of
City Officers
- 19-7-508: Use of Bond Proceeds
- 19-7-509: Call Bonds, Procedure
- 19-7-510: Excess Funds
- 19-7-511: City May Pay Preliminary Expenses,
Repayment from Bond Proceeds

- C) their delivery, in payment of the amounts due under the contract or contracts. The contractor or contractors may be required to accept delivery of all or any part of the remainder of the authorized issue of bonds and to pay therefor the principal amount thereof and accrued interest to the date of delivery, so that money will be available to the City to be expended in the payment of the incidental expenses for the payment of which the bonds were in part authorized. In advertising for construction bids as provided in Section 19-7-301 of this Article, the Council may stipulate that the contractor must accept bonds in payment of the contract price as provided in this subsection. (Ord. 2771; Ord. 82-34; 1968 Code § 12-62)

19-7-501: ISSUANCE OF BONDS:

- A. Public improvement bonds of the City may be issued to pay for local improvements ordered by City Council under the provisions of this Chapter.
- B. Such bonds may be sold in such manner as may be approved by the City Council for the payment of the contractor or contractors, for defraying the reasonable costs for labor, supplies and materials acquired by the City or supplied under agreement with the United States of America, the State of Colorado, or any Federal or State agency, instrumentality or corporation, or other political subdivision and for all proper incidental expenses. Sufficient of said bonds or the proceeds therefrom may be used to pay for engineering and clerical service and supplies, inspection, collecting assessments, advertising, printing, accrued interest on outstanding bonds, fiscal services, legal services and other incidentals.
- C. Such bonds may be delivered to the contractor or contractors in payment for the amounts due such contractor or contractors. Such bonds shall be accepted for the principal amount thereof, plus interest due thereon to the date of

19-7-502: FORM, PAYMENT FROM ASSESSMENTS:

- A. All local improvement bonds shall be of such form and of such date as may be prescribed by the Council, shall be issued in the name of the City and bear the name of the district to be improved, shall be payable to bearer at a designated time in a sufficient period of years to cover the period of construction and payments provided for, but subject to call as hereinafter provided, in convenient denominations. All such bonds shall be issued by the City Treasurer upon estimates of the Engineer approved by the Council; and the City Treasurer shall preserve a record of the same in a suitable book kept for the purpose. The bonds shall be manually subscribed by the City Treasurer and shall bear the engraved, printed, stamped or otherwise reproduced facsimile of the signature of the Mayor, attested by the City Clerk with the Seal of the City affixed thereto.
- B. The bonds, both principal and interest, shall be payable only out of moneys collected on account of the assessments for the improvements in any district, except as hereinafter provided. Such assessments shall be applied to the payment of the bonds issued

- B) for the same district only, until the payment of all the said bonds. The payment of said bonds shall be additionally secured by a pledge of and made from the special surplus and deficiency fund, and whenever four-fifths (4/5) of the bonds of any public improvement district have been paid and cancelled, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district and there is not sufficient money in said special surplus and deficiency fund, then the City shall pay said bonds when due and reimburse itself by collecting the unpaid assessments due said district, all as authorized by Section 43 under Article VII, City Charter. (Ord. 2771; 1968 Code § 12-63)

19-7-503: BONDS NOT DEBT OF CITY: Bonds issued pursuant to this Chapter shall not be a debt of the City, and the City shall not be liable thereon, nor shall it thereby pledge its full faith and credit for their payments, nor shall the bonds be payable out of any funds other than the special assessments and other moneys pledged to the payment thereof, as herein authorized. Each bond issued under this Chapter shall recite in substance that said bond and the interest thereon are payable solely from the special assessments and/or other moneys pledged to the payment thereof. The payment of bonds shall not be secured by an encumbrance, mortgage or other pledge of property of the City except for such special assessments and other moneys pledged for the payment of bonds. No property of the City, subject to said exceptions, shall be liable to be forfeited or taken in payment of the bonds. (Ord. 2771; 1968 Code § 12-64)

19-7-504: BONDS NOT INVALID DUE TO DEFECT: Bonds issued hereunder shall not be invalid for any irregularity or defect in the proceedings for their issuance, sale or delivery and shall be incontestable in the hands of bona fide purchasers or holders for value. (Ord. 2771; 1968 Code § 12-65)

19-7-505: BOND MATURITIES: Special assessment bonds shall bear such date or

dates, shall mature in such denomination or denominations at such time or term, or serially at such times, not exceeding the estimated life of the improvements acquired with the bond proceeds and in any event not more than twenty (20) years from their date, shall bear interest payable annually, or at such lesser interval or intervals as may be prescribed by ordinance, shall be payable in such medium of payment at such place or places within or without the State of Colorado, and at the option of the City Council may be in one or more series, may be made subject to prior redemption in advance of maturity at such time or times without or with the payment of such premium or premiums not exceeding five percent (5%) of the principal amount of each bond so redeemed, except as provided in Section 19-7-509 of this Article, may provide for the payment of interest thereon from the proceeds thereof for a period not to exceed three (3) years from the date thereof, may be issued with privileges for registration for payment as to principal or interest, or both, and generally shall be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the Council in the ordinance or ordinances authorizing the bonds, except as herein otherwise provided. (Ord. 2771; Ord. 82-34; 1968 Code § 12-66)

19-7-506: BONDS NEGOTIABLE: Except for payment provisions herein specifically provided, said bonds and any interest coupons hereto attached shall be fully negotiable within the meaning of and for all the purposes of the Commercial Code - Investment Securities.¹ (Ord. 2771; 1968 Code § 12-66)

19-7-507: BONDS, REGISTRATION, CHANGE OF CITY OFFICERS: Except for such bonds which are registrable for payment of interest, interest coupons shall be payable to bearer; and they shall be attached to the bonds and shall bear the original or facsimile signatures of the officers signing the bonds. The bonds and coupons bearing the signatures of the officers in office at the time of the signing thereof shall be the valid and binding obligations of the City, notwithstanding that before the delivery thereof and payment therefor, any or all

1. See C.R.S. 1973 § 4-3-101. The original draft of this provision referred to the negotiable instruments law.

of the persons whose signatures appear thereon shall have ceased to fill their respective offices. (Ord. 2771; 1968 Code § 12-67)

19-7-508: USE OF BOND PROCEEDS: All moneys received from the issuance of any bonds herein authorized shall be used solely for the purpose or purposes for which issued, including, without limiting the generality of the foregoing if so authorized, the payment of preliminary expenses incurred in connection with said purpose, the payment of interest on such bonds for a period not to exceed three (3) years from the date thereof, and all other incidental expenses; provided, however, that any unexpended balance of such bond proceeds remaining after the completion of the acquisition or improvement of the project or service for which such bonds were issued shall be paid immediately into the fund created for the payment of the principal of said bonds and shall be used therefor. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project or service for which the bonds are issued; and the purchaser or purchasers of the bonds shall in no manner be responsible for the application of the proceeds of the bonds by the City or any of its officers, agents and employees. (Ord. 2771; 1968 Code § 12-68)

19-7-509: CALL BONDS, PROCEDURE:

Whenever considered advisable by the City Treasurer he may, and whenever funds may be in his hands to the credit of any local improvement district exceeding the amount of interest on the unpaid principal accruing on the next principal payment date and if maturing serially the principal accruing on the next principal payment date, he shall by publication at least once not less than fifteen (15) days prior to the redemption date, in some newspaper of general circulation in the City, call in a suitable number of bonds of such district for payment for the principal amount thereof and accrued interest to the redemption date. After the redemption date so designated interest on the bonds so called shall cease. Nothing herein contained shall be construed as preventing the City from providing that such bonds shall be redeemed only on interest payment dates. The notice shall specify the bonds so called by number and all such bonds shall be paid in the order designated in the authorizing ordinance. The holder of any bonds may at any time furnish his

post office address to the City Treasurer and in such case a copy of such advertisement shall be mailed by the City Treasurer to the holder of the bonds called, at such address, within three (3) days of the date of such publication. (Ord. 2771; 1968 Code § 12-69)

19-7-510: EXCESS FUNDS: When all outstanding bonds have been paid in a public improvement district and any money remains to the credit of said district, it shall be transferred to the special surplus and deficiency fund; and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds, it shall be paid out of said fund, pursuant to Section 43 under Article VII, City Charter. (Ord. 2771; 1968 Code § 12-70)

19-7-511: CITY MAY PAY PRELIMINARY EXPENSES, REPAYMENT FROM BOND PROCEEDS:

The City may provide for the payment of all necessary preliminary expenses actually incurred in the making of surveys, estimates of costs and revenues, the employment of engineers, architects, fiscal agents, attorneys at law, clerical help, other agents or employees, the making of notices, taking of options, and all other expenses necessary or desirable to be made and paid prior to the authorization for or the issuance of such bonds; provided, no such expenditures shall be made or paid unless an appropriation has been budgeted and made therefor in the manner as is required by law, or unless other moneys are available to defray such expenses. Any funds so expended by the City for preliminary expenses incurred in connection with the same purpose as that for which bonds are issued may be fully reimbursed and repaid to the City out of the proceeds derived from the issuance of such bonds, in which case such expenses shall be included as an incidental cost for assessment purposes. By the ordinance authorizing the issuance of such bonds, the amount so advanced by the City to pay such preliminary expenses may be made a first charge against such bond proceeds. (Ord. 2771; 1968 Code § 12-71)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 6 ASSESSMENT PROCEDURES

SECTION:

- 19-7-601: Council to Determine Assessments
- 19-7-602: Council Assessments Final, Exception
- 19-7-603: Public and Quasi-Public Lands Assessed
- 19-7-604: Intersection Improvements
- 19-7-605: Irregular Shaped Lands
- 19-7-606: Sidewalk Improvements
- 19-7-607: Entire Cost Assessed, Basis

19-7-601: COUNCIL TO DETERMINE ASSESSMENTS: Whenever any improvement authorized to be made by the City pursuant to this Article is so completed or so near completion that the final cost can be computed, the City Council shall determine that all or any part of the total cost thereof, but excepting the share to be assessed against any street or other railway company, shall be assessed against the tracts or parcels of land specially benefited thereby and included within the district, but not including any tract or parcel owned by the United States of America, or any agency, instrumentality or corporation thereof or any streets or public highways. Such special assessments shall be in proportion to the special benefits derived to such property and on a front foot, area, zone or other equitable basis, as may be determined by the City Council, sufficient to cover the portion of the total cost of the improvement to be defrayed by special assessments. (Ord. 76-76; 1968 Code § 12-41)

19-7-602: COUNCIL ASSESSMENTS FINAL, EXCEPTION: The assessments when made and apportioned and adopted by the City Council shall be final, and thereafter no such assessments shall be apportioned or allocated or divided as to different portions or tracts of the property so assessed but the entire tract so assessed shall be liable for the entire assessment on the tract. Provided, however, that where the original assessment has been made upon all or parts of two (2) or more platted lots, the City Council may, after

hearing and determination that no person in interest will be injured and that the collection of the assessment will not thereby be prejudiced, order the assessment allocated or apportioned as between the two (2) platted lots, but no separation or allocation shall be made as to any part or portion of one such lot.¹ (Ord. 2771; 1968 Code § 12-42)

19-7-603: PUBLIC AND QUASI-PUBLIC LANDS ASSESSED:

- A. Public Lands. When the City, County, school district or any other public or quasi-public corporation shall own any tract of land, or hold the title to any land not used as a street, avenue, boulevard, alley or public highway, which if owned by a private person would be liable to assessment for benefits to pay for any public improvement mentioned in this Chapter, an assessment shall be made against the land as though the land were the property of a private person, and the City, County, school district or other public or quasi-public corporation shall pay the amount of the assessment. If the assessment is not paid within thirty (30) days after the final publication of the assessing ordinance, suit may be brought in the district court to enforce the collection of the assessment and the judgment rendered against the City, County, school district or other public or quasi-public corporations, but no such land of the City, County or school district shall be sold under any such judgment. (Ord. 2771; 1968 Code § 12-43)
- B. Railway Companies. In addition to any other powers exercisable pursuant to this Chapter, the Council may include in the area to be improved the portion of any street occupied or repaired by franchise obligation to be paved, or chargeable or assessable to any street, interurban or other railway company whose tracks run through or across any street in the district, and may charge to, assess and collect

¹. See Section 19-7-711 of this Chapter.

- B) the proper proportion as determined by the Council, of the cost of the improvement from said street, interurban or other railway company in the same manner as is provided in this Chapter in the case of other property specially benefited. Provided, however, the assessment levied for the cost of any improvements chargeable to a railway company shall be a first and prior lien against the entire franchise and property of the company within the district, and also without the district, but within the limits of the City, subject to general taxes. All the terms, conditions and provisions in this Chapter contained relative to the collection of the amounts chargeable against tracts or parcels of land assessed shall be applicable in the enforcement and collection of the assessment against the street, interurban or other railway company, and the property of said railway company shall, in case of default in payment of the assessment, be sold as in cases of default in payment of general taxes levied thereon. (Ord. 2771; 1968 Code § 12-44)

19-7-604: INTERSECTION IMPROVEMENTS: In case of the improvement of any street, except as otherwise provided in this Chapter, the cost of the improvements in any and all street intersections, except sidewalks, and further excepting the share, if any, to be paid by street or other railroad companies, shall be included in the total cost of the improvements within the district and assessed upon all other lots and lands in the district in the proportion as the frontage of all lots and tracts in the district; provided, however, that the City Council may provide that the City may pay for the intersection improvements out of its general revenues, if funds therefor are available. (Ord. 2771; 1968 Code § 12-45)

19-7-605: IRREGULAR SHAPED LANDS: When any real estate is "V" shaped or of any irregular form, the City Council may, upon the recommendation of the City Engineer, make such allowance in the assessment thereon as to the Council may seem equitable or just, so that the assessment thereagainst shall be in proportion to the special benefits thereby derived, if such were not the case in the absence of such in adjustment. (Ord. 2771; 1968 Code § 12-46)

19-7-606: SIDEWALK IMPROVEMENTS:¹

- A. Owner May Make Improvements. In districts for the construction and reconstruction of sidewalks alone, or in combination with other improvements, the work shall include the necessary grading from curb line to lot line. The owner shall have the right to construct or reconstruct his own walks, in conformity with the plans and specifications for the district, within thirty (30) days from the publication of the ordinance authorizing the improvement upon obtaining a permit to construct or reconstruct said walks from the Department of Public Works and upon the deposit with the City Treasurer of a surety bond in an amount satisfactory to said City Treasurer. Whenever sidewalks are ordered, in combination with improvements other than grading sidewalk areas, a separate contract may be let for the construction and reconstruction of the sidewalks, exclusive of the necessary grading. (Ord. 2771; 1968 Code § 12-47)
- B. Order Sidewalk Improvements Other Than in Districts, Procedure. The City Council may order the construction or reconstruction of sidewalks, other than in districts, whenever in the opinion of the Council it shall be proper because sufficient sidewalks have been laid in the vicinity to make it reasonable that intervening sidewalk areas should be provided with sidewalks, or existing sidewalks shall be reconstructed; in all such cases the City Council shall notify the owner or his agent to construct or reconstruct such walks within forty five (45) days from the date of the service of such notice. Such notice shall be in writing and served upon the owner by certified or registered United States mail. Whenever the owner shall be in default, the Council may have the required work done by day labor or contract, and when done, issue to the person doing the work a certificate therefor, stating the just amount due him, which certificate shall draw interest at the rate not less than the highest interest rate borne by the bonds of the local improvement district per annum until paid, and the assessment shall be a lien upon the property until it shall be paid; in case of failure to pay such assessment within thirty (30) days after the issuance of the certificate the same may be certified by the City Clerk to the County Treasurer to be collected in the same

¹. See Article 6 of this Chapter for additional procedures relating to construction and maintenance of sidewalks.

- B) manner as other taxes are collected, with ten percent (10%) penalty thereon to defray the cost of collection. All the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and their redemption of the same, shall apply and have as full effect for the collection of the assessment for sidewalks as for general taxes. (Ord. 2771; Ord. 83-72; 1968 Code § 12-49)

19-7-607: ENTIRE COST ASSESSED, BASIS: The whole cost of construction and reconstruction of sidewalks, including intersections and necessary grading and removal of obstructions shall be assessed upon the lots or lands in front of which the improvements are made as follows: the grading, removal of obstructions, intersections and all other general expenses, including cost of collection and interest, prorata per front foot; new walks, prorata per front foot where constructed; and reconstructed walks upon each lot or piece of land where reconstructed according to the cost of reconstruction. (Ord. 2771; 1968 Code § 12-48)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 7 ASSESSMENT ROLL, PAYMENTS

SECTION:

- 19-7-701: Prepare Statement, Assessment Roll
- 19-7-702: Hearing on Assessment Roll, Notice, Procedure
- 19-7-703: Assessments a Lien, Exceptions
- 19-7-704: Council May Make New Assessment
- 19-7-705: Engineer Shall Extend Assessment Roll
- 19-7-706: Date Assessments Due, Installments
- 19-7-707: Failure to Pay Installment When Due, Penalties, Reinstatement
- 19-7-708: Annual, Semiannual Installments; Interest
- 19-7-709: Payments Made to Treasurer
- 19-7-710: County Treasurer to Receive Installment Payments
- 19-7-711: Owner May Pay Share
- 19-7-712: County Treasurer to Pay Monthly
- 19-7-713: City May Purchase Tax Sale Property

19-7-701: **PREPARE STATEMENT, ASSESSMENT ROLL:**

- A. Upon the completion of any local improvement in any district or any subdistrict, and upon the acceptance thereof by the City Council, or whenever the total cost of such improvement can be definitely ascertained, the City Engineer shall prepare a statement, showing the total cost of the improvement within the district or subdistrict, including, without limiting the generality of the foregoing, the cost of constructing or otherwise acquiring such improvement or improvements, engineering and clerical service and supplies, cost of inspection, cost of collecting assessments, advertising, printing, interest on bonds until interest on assessments is available to defray same, fiscal services, legal services for preparing proceedings and advising in regard thereto, and other incidental costs.
- B. The City Engineer shall also prepare an assessment roll which shall contain among other things:

- B) 1. The names of the last known owners of the property to be assessed, or if not known that the name is unknown;
- 2. A description of each tract or parcel of land to be assessed and in the case of street or other railway company a general description of the franchise and property thereof assessed; and
- 3. The amount of the assessment thereon.

The City Council shall order the City Engineer to certify, and he shall so certify, the assessment roll to the City Council by filing the same in the office of the City Clerk when the roll is prepared. (Ord. 2771; 1968 Code § 12-73)

19-7-702: **HEARING ON ASSESSMENT ROLL, NOTICE, PROCEDURE:**

- A. When the assessment roll is so certified and filed, the City Council shall fix a time and place when objections or remonstrances thereto by the owners of such real estate to be assessed, street or other railway companies, and all interested persons will be heard.
- B. The City Clerk shall thereupon give notice of the proposed assessments and of the hearing thereon by publication for one day not less than ten (10) days prior to the hearing, in a daily newspaper of general circulation in the City, and by mailing notice, postage prepaid, as first class mail, not less than ten (10) days prior to such hearing, to the last known address of each last known owner of the land within the district whose property will be assessed for the cost of the improvements, such addresses and owners being those appearing on the real property assessment rolls for general (ad valorem) taxes of El Paso County, Colorado. The notice shall state:
 - 1. That such assessment roll is on file in the City Clerk's office;

B) 2. The date of filing the same; and

3. The time and place when and where the City Council will hear and consider objections and remonstrances to the assessment roll and to the proposed assessments by the parties thereby aggrieved. The owner or owners of any property which is assessed in such assessment roll, such street or other railway company, or other interested persons, whether or not named in said roll, may, at any time after the first publication of said notice and prior to the day of the hearing, file with the City Clerk his or their specific objections in writing. Any objection to the regularity, validity and correctness of the proceedings, of said assessment roll, of each assessment contained therein, and of the amount levied on each tract and parcel of land, shall be deemed waived unless presented in writing at the time and in the manner herein specified.¹

C. At the time and place so designated for hearing such objections, the City Council shall hear and determine all written objections or remonstrances which have been so filed by any party interested to the regularity of the proceedings in making such assessment, and the correctness of such assessment, or of the amount levied on any particular tract or parcel of land to be assessed. The City Council may consider any other matter concerning the validity of any assessment and may adjourn such hearing from time to time. After the hearing has been concluded, after all written complaints, remonstrances and objections have been read and duly considered, and after all persons desiring to be heard in person have been heard, the Council shall consider the arguments, if any, and any other relevant material put forth. Thereafter, the Council in its discretion, may revise, correct, confirm or set aside any assessment and may order that such assessment be made do novo.

D. The Council by ordinance, shall, by reference to the assessment roll as so modified, levy the assessments in said roll. Such ordinance shall be a final determination of the regularity, validity and correctness of the proceedings, of said assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract and parcel of land. That determination by the Council shall be

D) conclusive upon the owners of the property assessed. The ordinance also shall state substantially the provisions in the next succeeding paragraph of this Section.

E. Within the fifteen (15) days immediately succeeding the publication after its final passage of any ordinance so levying any special assessments, any person who has filed a written objection or objections, or written remonstrance or remonstrances, as hereinabove provided, may commence action or suit in any court of competent jurisdiction to correct or set aside such determination. Thereafter all actions or suits attacking the regularity, validity and correctness of the proceedings, of said assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract and parcel of land shall be perpetually barred. (Ord. 2771; 1968 Code § 12-74)

19-7-703: ASSESSMENTS A LIEN, EXCEPTIONS:

A. All assessments made in pursuance of this Chapter shall be a lien in the several amounts assessed against each tract or parcel of land from the final publication of the assessing ordinance, and shall have priority over all other liens, claims, encumbrances and titles, whether prior in time or not and shall constitute such a lien until paid, except as follows:

1. Any assessment lien is subordinate and junior to any lien for general (ad valorem) taxes and is subject to extinguishment by the sale of any property on account of the nonpayment of general taxes; and

2. Any assessment lien on any tract or parcel of land is prior and superior to any assessment lien thereon subsequently levied.

B. As to any subdivision of any real estate assessed in pursuance of this Chapter, the assessment shall in each case be a lien upon all the subdivision exclusive of public streets and alleys in proportion to their respective areas.

C. No delays, mistakes, errors, defects or irregularities in any act or proceeding authorized by this Chapter shall prejudice or

1. As to the effect of an owner's failure to receive such notice, see Section 19-7-107 of this Chapter.

- C) invalidate any final assessment, but the same shall be remedied by subsequent or amended acts or proceedings, as the case may require, and when so remedied, the same shall take effect as of the date of the original act or proceeding. (Ord. 2771; 1968 Code § 12-75)

19-7-704: COUNCIL MAY MAKE NEW ASSESSMENT: If in any court of competent jurisdiction any final assessment made in pursuance of this Chapter is set aside for irregularity in the proceedings, the City Council may then, upon notice as required in the making of an original assessment, make a new assessment in accordance with the provisions of this Chapter. (Ord. 2771; 1968 Code § 12-76)

19-7-705: ENGINEER SHALL EXTEND ASSESSMENT ROLL: From the assessing ordinance, the City Engineer shall complete and extend the assessment roll in book form, showing in suitable columns after each piece of real estate, the amounts of each installment of principal and interest, if the same is payable in installments, and the date when such installments will become due, with suitable columns for use in case of payment of the whole amount, or of any installment or penalty, and deliver the same to the City Treasurer for collection. (Ord. 2771; 1968 Code § 12-77)

19-7-706: DATE ASSESSMENTS DUE, INSTALLMENTS: All assessments made in pursuance of this Chapter shall be due and payable without demand within thirty (30) days after final publication of the assessing ordinance. All such assessments may at the election of the owner be paid in installments with interest as hereinafter provided. Failure to pay the whole assessment within said period of thirty (30) days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installments the amount of the assessment then unpaid. All persons so electing to pay in installments shall be conclusively considered and held as consenting to said improvements, and such election shall be conclusively considered and held as a waiver of any and all rights to question the power or jurisdiction of the City to construct or otherwise acquire the improvements, the quality of the work, the regularity or sufficiency of the of proceedings

or the validity or correctness of the assessment. The owner of any piece of real estate may at any time pay the whole unpaid principal with the interest accrued to the next interest payment date, together with penalties, if any. Subject to the foregoing provisions all installments both of principal and interest, shall be payable at such times as may be determined in and by the assessing ordinance. (Ord. 2771; 1968 Code § 12-78)

19-7-707: FAILURE TO PAY INSTALLMENT WHEN DUE, PENALTIES, REINSTATEMENT: Failure to pay any installment, whether principal or interest, when due shall cause the whole amount of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one percent (1%) per month or fraction of a month until the day of sale as hereafter provided (not exceeding, however, at any time a total interest amount due of thirty percent [30%] of the principal amount of the assessment), plus two percent (2%) additional on unpaid principal and accrued interest as penalties, plus costs of collection. At any time prior to the day of sale, the owner may pay the amount of delinquent installments with accrued interest at one percent (1%) per month, or fraction of a month as aforesaid, and all penalties and costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been made. (Ord. 2771; 1968 Code § 12-79)

19-7-708: ANNUAL, SEMIANNUAL INSTALLMENTS; INTEREST: In case of election to pay in installments, the assessment shall be payable in not less than two (2) or more than fifteen (15) substantially equal annual installments, or not less than four (4) nor more than thirty (30) substantially equal semiannual installments, of principal; with interest in all cases on the unpaid principal, payable annually or semiannually at a rate not less than the highest interest rate borne by the bonds of the local improvement district; as the number of installments, assessments, the period of payment and the rate of interest may be determined by the Council. Nothing herein contained shall be construed as limiting the discretion of the City Council in determining the time the first installment of principal or interest, or both, shall become due. (Ord. 2771; Ord. 83-72; 1968 Code § 12-80)

19-7-709: PAYMENTS MADE TO TREASURER:

- A. Payments may be made to the City Treasurer at any time within thirty (30) days after the final publication of the assessing ordinance, without penalty or the payment of interest. The City Treasurer shall give notice by one publication in a daily newspaper of general circulation in said City at least twenty (20) days before the end of said thirty (30) day period, of the place of payment and the time for it to close. At the expiration of said thirty (30) day period, the Treasurer shall post to the local assessment roll, all payments made to that date with the date of each payment.
- B. Said roll shall be certified by the City Clerk and by him delivered to the County Treasurer with his warrant for the collection of the same. (Ord. 2771; 1968 Code § 12-81)

19-7-710: COUNTY TREASURER TO RECEIVE INSTALLMENT PAYMENTS:

The County Treasurer shall receive payment of all assessments appearing upon the assessment roll with interest and in case of default in the payment of any installment or principal or interest when due, shall advertise and sell any and all property concerning which such default is suffered, for the payment of the whole or the unpaid assessment thereon. The advertisements and sale shall be made at the same time in the same manner, under the same conditions and penalties, and with the same effects as are provided by general law for sale of real estate in default of payment of general taxes.¹ (Ord. 2771; 1968 Code § 12-82)

19-7-711: OWNER MAY PAY SHARE: The owner of any divided or undivided interest may pay his share of any assessment upon producing evidence of the extent of his interest satisfactory to the City Treasurer.² (Ord. 2771; 1968 Code § 12-83)

19-7-712: COUNTY TREASURER TO PAY MONTHLY:

All collections made by the County Treasurer upon the assessment roll in any calendar month shall be accounted for and paid over to the City Treasurer on or before the tenth day of the next succeeding calendar month, with a separate statement for all such collections for each improvement. (Ord. 2771; 1968 Code § 12-84)

19-7-713: CITY MAY PURCHASE TAX SALE PROPERTY:

At any sale by the County Treasurer of any property for the purpose of paying any special assessments for local improvements in the City, the City Treasurer, having written authority from the City Manager, may purchase any such real estate without paying for the same in cash, and shall receive certificates of purchase therefor in the name of the City. The certificates shall be received and credited at their face value with all interest and penalties accrued by the County Treasurer on account of assessments in pursuance of which the sale was made. The certificates may thereafter be sold by the City Treasurer at their face value with all interest and penalties accrued and by him assigned in the name of the City, and the proceeds credited to the fund created by ordinance for the payment of such assessments, respectively. Such assignments shall be without recourse and the sale and assignments shall operate as a lien in favor of the purchasers and assignees as is provided by law in the case of sales of real estate in default of payment for general taxes. (Ord. 2771; 1968 Code § 12-85)

1. See C.R.S. 1973 § 39-11-101 et seq. for tax sale procedures.

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 7 PUBLIC IMPROVEMENTS

PART 8 HARDSHIP

SECTION:

- 19-7-801: Hardship Committee
- 19-7-802: Relief from Hardship, Anticipation of Default
- 19-7-803: Security for Repayment
- 19-7-804: Eligibility Criteria
- 19-7-805: Maintenance of Surplus and Deficiency Fund

19-7-801: HARDSHIP COMMITTEE: There shall be created a Hardship Committee composed of the Mayor, the City Clerk and the City Controller, which shall review applications for relief from assessments imposed under this Article. This Committee shall determine eligibility for relief, the repayment schedule and all other determinations required in the administration of this program. All decisions of this Committee shall be final, except maximum income limits for eligibility, which shall be approved by the City Council. (Ord. 76-54; 1968 Code § 12-98)

19-7-802: RELIEF FROM HARDSHIP, ANTICIPATION OF DEFAULT: Eligible persons who are determined to have such a marginal income that they cannot pay an assessment levied under this Article against the property on which they reside, may be afforded relief as hereinafter provided. If it is determined that any such person will probably default on his payments as determined under the assessing ordinance, his assessment may be paid in full by an advance from the Surplus and Deficiency fund in anticipation of default. Such person shall agree to reimburse said Fund by making monthly payments to the City Treasurer. Such monthly payments shall be not less than five dollars (\$5.00) and shall be sufficient to repay the amount advanced within a period of not more than twenty five (25) years. Interest shall be charged at the rate of three percent (3%) per annum on the unpaid balance. (Ord. 4807; 1968 Code § 12-96)

19-7-803: SECURITY FOR REPAYMENT: No such advance shall be made out of the Surplus and Deficiency Fund unless the property owner executes an installment note for the repayment of the sum advanced with interest secured by a deed of trust to the property. The note and deed of trust shall provide for acceleration so that the entire outstanding balance shall become due and payable upon the death of the obligor or the sale or transfer of the property. It shall be further provided that if at any time the City determines that the obligor is financially able to pay the outstanding balance, or that he has wilfully misrepresented his financial condition on his application, it may, upon sixty (60) days' notice, declare the entire balance due and payable. All principal and interest repaid shall be deposited in the Surplus and Deficiency Fund. (Ord. 4807; 1968 Code § 12-97)

19-7-804: ELIGIBILITY CRITERIA: In order to be eligible for relief from assessment, the applicant must:

- A. Be an individual or family who owns and occupies a one-dwelling unit residential property.
- B. Be unable to secure the necessary funds with which to make the payments required by the ordinance levying the assessment against his property.
- C. Be able to pay the assessment if payments are extended over a period not to exceed twenty five (25) years.
- D. Have a monthly net income from all sources which does not exceed limits to be set by the Hardship Committee subject to City Council approval.
- E. If the deed of trust securing repayment would not have first priority, then the applicant must demonstrate that he has equity in the property greater than the amount of the assessment. (Ord. 4807; 1968 Code § 12-99)

19-7-805: MAINTENANCE OF SURPLUS AND DEFICIENCY FUND: No advance to relieve hardship shall be made from the Surplus and Deficiency Fund if such advance would reduce the balance remaining in the fund to an amount less than five percent (5%) of all outstanding bonds issued under this Article. (Ord. 4807; 1968 Code § 12-100)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WAYS

ARTICLE 8 PUBLIC MALL PROJECTS

PART 1 GENERAL PROVISIONS

SECTION:

- 19-8-101: Purpose, Interpretation of Article
- 19-8-102: Definitions
- 19-8-103: General Powers of the City
- 19-8-104: Initiating Procedure
- 19-8-105: Effect of Estimates
- 19-8-106: Hearing and Notice
- 19-8-107: Appealing Adverse Order
- 19-8-108: Creation of District
- 19-8-109: Methods of Acquisition or Improvement
- 19-8-110: Construction by City
- 19-8-111: Cooperative Construction
- 19-8-112: Interim Warrants

19-8-101: **PURPOSE, INTERPRETATION OF ARTICLE:**

- A. The purpose of this Article is to provide a procedure for public mall projects for a designated area or district within the City.
- B. This Article being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to effect its purposes. (Ord. 74-108; 1968 Code § 12-101)

19-8-102: DEFINITIONS: The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.¹ The definitions set forth in Section 19-7-102 shall apply to this Article.

PUBLIC MALL PROJECT: One or more public streets, roads, highways, lanes, areas, sidewalks, rights of way, courts, ways or places of any nature open to the use of the public and held by the public for street and road purposes, or portions thereof, on which vehicular traffic is, or is to be, restricted in whole or in part and which is, or is to be, used exclusively or primarily for pedestrian travel,

including other improvements constructed for appearance and utility. (Ord. 74-108; 1968 Code § 12-101)

19-8-103: **GENERAL POWERS OF THE CITY:**

The City Council, on behalf of the City and in its name, without any election, shall have power from time to time to acquire, improve, equip, operate and maintain, within or without the City, or both within and without the City a public mall project. The Council, upon behalf of the City and in its name, for the purpose of defraying all the cost of acquiring or improving, or acquiring and improving, any public mall project or any portion of the cost thereof not to be defrayed with moneys available therefor from the General Fund, any special fund, or otherwise, shall have power hereunder:

- A. To levy assessments against assessable property within the City and to cause the assessments so levied to be collected;
- B. To pledge the proceeds of any assessments levied hereunder to the payment of special assessment bonds and to create liens on such proceeds to secure such payments;
- C. To issue special assessment bonds as provided by Article 7, Part 5 of this Chapter; and
- D. To make all contracts, to execute all instruments, and to do all things necessary or convenient in the exercise of the powers granted herein or in the performance of the City's duties or in order to secure the payment of its bonds; provided, however, no encumbrance, mortgage or other pledge of property, excluding any money, of the City is created thereby; and provided no property, excluding any money of the City is liable to be forfeited or to be taken in payment of the bonds. (Ord. 74-108; 1968 Code § 12-101)

19-8-104: **INITIATING PROCEDURE:**

¹ For definitions of general application, see Section 1-1-203 of this Code.

A. Whenever the Council shall be of the opinion that the interest of the City requires a public mall project, the Council by resolution shall direct the Engineer to prepare:

1. Preliminary plans showing the character and proposed location of the contemplated project;

2. A preliminary estimate of the cost of the public mall project, including incidental costs; and

3. An assessment plat or map showing thereon the area to be assessed, and showing thereon, or on an addendum thereto, the amount of estimated maximum benefits to be assessed against each and every tract in said assessment area including those tracts which are benefited, but due to the limitations of Section 19-8-202, are not to be assessed.

B. The estimate may be made in a lump sum or by unit prices, as to such Engineer may seem most desirable for the public mall facilities complete in place.

C. The resolution shall describe the public mall project in general terms and shall state and describe:

1. What part of the cost is of special benefit and shall be paid by assessments;

2. What part is proposed to be defrayed with moneys derived from other than the levy of assessments;

3. The basis by which the cost will be apportioned and assessments will be levied;

4. The improvement district, including the tracts to be assessed;

5. By definite description the location of the public mall project; and

6. That the assessment is to be made upon all the tracts benefited by the public mall project proportionately to the benefits received, subject to the limitations of Section 19-8-202.

D. It shall not be necessary in any case to describe minutely each particular tract to be assessed

D) but simply to designate the improvement district or the location so that the various parts to be assessed may be ascertained.

E. The Engineer shall forthwith prepare and file with the City Clerk:

1. Said preliminary plat;

2. Said preliminary estimate of cost; and

3. Said assessment plat or map and addendum thereto.

F. Upon the filing of said plans, preliminary estimate of cost, and plat or map, the Council shall examine the same; and if the plans, estimate, and plat or map are found to be satisfactory, the council shall by resolution order that such public mall project shall be acquired or improved, or both acquired and improved. (Ord. 74-108; 1968 Code § 12-102)

19-8-105: EFFECT OF ESTIMATES: Any estimate of cost required herein shall not constitute a limitation upon such cost nor a limitation upon the rights and powers of the Council or of any officers, agents or employees of the City. No assessment, however, shall exceed the amount of the estimate of maximum special benefits to the tract assessed from any public mall project or the limitations set forth in Section 19-8-202. (Ord. 74-108; 1968 Code § 12-103)

19-8-106: HEARING AND NOTICE: After the adoption of the resolution to proceed required by Section 19-8-104F, the hearing shall be held and notice given pursuant to the provisions and in accordance with the procedure set forth in Section 19-7-107 and 19-7-201 through 19-7-208 inclusive, the provisions of which Sections are incorporated herein by reference thereto. (Ord. 74-108; 1968 Code § 12-104)

19-8-107: APPEALING ADVERSE ORDER: Any person filing with the Council a complaint, remonstrance or objection on any one or more specific grounds in writing, shall have the right within fifteen (15) days after the Council has finally passed on such complaint, remonstrance or objection by ordinance creating the district, (i.e., fifteen days after the publication of said ordinance

upon final passage), as provided in Section 19-7-206, to commence any action or suit in any court of competent jurisdiction to correct or to set aside only such determination of the Council on any such specific and written complaint, remonstrance or objection; and thereafter all actions or suits attacking the validity of the preliminary plans, any preliminary estimate of cost, assessment plat or map, other proceedings, and any maximum amount of benefits shall be perpetually barred. (Ord. 74-108; 1968 Code § 12-105)

19-8-108: CREATION OF DISTRICT: When the accurate estimate of cost, full and detailed plans and specifications, and plat or map and addendum are prepared, are presented and are satisfactory to the Council, it shall by the ordinance required by Section 19-7-208 of this Code, create the district and order the proposed public mall project to be acquired or improved, or acquired and improved. Actions concerning the ordinance and the project may be taken in accordance with Section 19-7-211 of this Code. (Ord. 74-108; 1968 Code § 12-106)

19-8-109: METHOD OF ACQUISITION OR IMPROVEMENT:

A. Any construction work for any public mall project shall be done in any one or more of the following three (3) ways:

1. By independent contract pursuant to the procedures and requirements of Sections 19-7-301 through 19-7-304, inclusive, and Section 19-7-306 of this Code;

2. By use of municipally owned or leased equipment and Municipal officers, agents and employees; or

3. By any public body or by the Federal government acquiring or improving a public mall project or any interest therein which is herein authorized which results in general benefits to the City and in special benefits to the assessable property being assessed therefor by the City within its boundaries.

B. Notwithstanding a project herein authorized or any interest therein may not be owned by the City nor be directly acquired or improved, nor the costs thereof directly incurred by the City,

B) and notwithstanding the public mall project herein authorized or any interest therein may be located on land, an easement or other interest therein, or other real property owned by the Federal government or by a public body, the City shall have the power:

1. To acquire or improve, or to cooperate in the acquisition or improvement of, the public mall project or any interest therein with the Federal government or with any public body pursuant to agreement between or among the City and such other bodies corporate and politic so long as the public mall project or the interest therein acquired or improved, results in general benefits to the City and in special benefits to the assessable property being assessed therefor by the City within its boundaries;

2. To levy special assessments on such assessable property to defray all or any part of the costs of the project or any interest therein or to defray all or any part of the City's share of such costs if all costs are not being defrayed by the City; and

3. To issue bonds and to exercise other powers herein granted and appertaining to such acquisition or improvement, or both such acquisition and improvement. (Ord. 74-108; 1968 Code § 12-107)

19-8-110: CONSTRUCTION BY CITY: In the case of construction work done by the use of municipally owned or leased equipment and by Municipal officers, agents and employees for any project or any portion thereof in any improvement district, supplies and materials may be purchased or may be otherwise acquired therefor. All supplies and materials purchased by the City for such improvement district shall be purchased only in accordance with this Code. (Ord. 74-108; 1968 Code § 12-108)

19-8-111: COOPERATIVE CONSTRUCTION:

A. In the case of construction work done by agreement with the City and with one or more public bodies or with the Federal government, or any combination thereof, for any public mall project or any portion thereof in any improvement district, the City may enter into

- A) and may carry out any contract or may establish or may comply with the rules and regulations concerning labor and materials and other related matters in connection with any project or any portion thereof as the City may deem desirable or as may be requested by the Federal government or by any public body which is a party to any such contract with the City that may assist in the financing of any project or any part thereof, regardless of whether the City is a party to any construction contract or to any other contract appertaining to incurring costs of the project.
- B. Any public mall project or any portion of the cost of which may be defrayed by the City by the levy of special assessments hereunder, may be acquired with the cooperation and assistance of, or under a contract or contracts let by, or with labor, or supplies and materials, or all of such furnished by any one or more such public bodies or by the Federal government, or any combination thereof. (Ord. 74-108; 1968 Code § 12-109)
- D) special assessments, any bond proceeds, or both assessments and bond proceeds, and generally shall be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details as may be provided by the Council by ordinance. (Ord. 74-108; 1968 Code § 12-110)

19-8-112: INTERIM WARRANTS:

- A. For the purpose of paying any contractor or of otherwise defraying any costs of the public mall project as the same become due from time to time until moneys are available therefor from the levy and collection of assessments or from any issuance of bonds, the Council may issue interim warrants.
- B. Any interim warrants issued for any construction work shall be issued only upon estimates of the Engineer.
- C. Any interim warrants shall bear such date or dates, shall mature in such denomination or denominations at such time or times or at any time upon call, shall bear interest at such rate or rates and shall be payable at such place or places including but not limited to the office of the City Treasurer, as the Council may determine.
- D. Any interim warrants may be issued with privileges for registration for payment as to only principal or as to both principal and interest, may be negotiable or non-negotiable, shall be special obligations payable from designated

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 8 PUBLIC MALL PROJECTS

PART 2 ASSESSMENT AND HEARINGS

SECTION:

- 19-8-201: Order of Proposed Assessment Roll, Form
- 19-8-202: Limitations Upon Assessments
- 19-8-203: Preparation of Proposed Roll
- 19-8-204: Notice of Assessment Hearing
- 19-8-205: Assessment Hearing
- 19-8-206: Levy of Assessments
- 19-8-207: Appeal of Adverse Determination
- 19-8-208: Payment Period; Deferred Payments
- 19-8-209: Assessment Liens; Further Procedures

19-8-201: ORDER OF PROPOSED ASSESSMENT ROLL, FORM:

- A. After the making of any construction contract, or after the determination of the net cost of the City, but not necessarily after the completion of the public mall project, the City, by resolution, shall:

1. Determine the cost of the public mall project to be paid by the assessable property in the improvement district and order the Engineer to make out an assessment roll containing, among other things:

a. The name of each last-known owner of each tract to be assessed or, if not known, that the name is "unknown", and

b. A description of each tract to be assessed and the amount of the proposed assessment thereon, apportioned upon the basis for assessments stated in the resolution required by Section 19-8-104 of this Code for the hearing on the public mall project; and

2. Cause a copy of the resolution to be furnished by the City Clerk to the Engineer.

- B. In fixing the amount that may be required to pay the costs of the public mall project, the

B) Council need not necessarily be governed by the estimates of the costs of such project required by Section 19-8-104A2 of this Code, but the Council may fix such other amount as it may deem necessary to cover the cost of the public mall project.

- C. If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any tract or if the same is assessed without the name of the owner or in the name of a person other than the owner, such assessment shall not for that reason be vitiated, but it shall in all respects be as valid upon and against such tract as though assessed in the name of the owner thereof; and when the assessment roll has been confirmed, such assessment shall become a lien on such tract and shall be collected as provided by law. (Ord. 74-108; 1968 Code § 12-111)

19-8-202: LIMITATIONS UPON ASSESSMENTS:

- A. In determining the amount to be assessed upon each individual tract of assessable property, the Engineer shall consider the zoning on such tract at the time of assessment, the present use of such property, the current assessed and market value of such property, and the location of the property in relation to the public mall project, and the proximity of such property to the public mall project.

- B. No assessment for any one public mall project may exceed the reasonable market value of the tract assessed as determined by the Engineer and by the Council, provided, however, that such tract may be assessed for more than one public mall project.

- C. Regardless of the basis used, in cases of wedge or V or any other irregular shaped tracts, the amount apportioned shall be in proportion to the special benefits thereby derived.

- D. No assessment shall exceed the amount of the estimate of maximum special benefits to the tract assessed, as provided in Section 19-8-104 of this Code.
- E. The amount of any difference between the amount of any assessment levied against any tract and the amount which would have been levied there against except that it would then have exceeded the limitations of this Section shall be defrayed by the City by other than the levy of assessments. (Ord. 74-108; 1968 Code § 12-112)

19-8-203: PREPARATION OF PROPOSED ROLL: Upon receiving the resolution, the Engineer shall make an assessment roll and state a proposed assessment upon each tract. When completed, he shall report the assessment roll to the City Council which roll shall be filed in the office of the City Clerk and numbered. (Ord. 74-108; 1968 Code § 12-113)

19-8-204: NOTICE OF ASSESSMENT HEARING:

- A. Upon receiving the assessment roll, the Council by resolution shall fix a time and a place when and where the Council will hear objections and remonstrances that may be made in writing or may be made verbally concerning the assessments by the owner of any tract or by any person interested and shall order the City Clerk to give notice of said hearing.
- B. The City Clerk shall give notice by publication and by mail as provided in Section 19-7-702 of this Code of the time and the place of such hearing, which notice shall also state:
 1. The assessment roll is on file in his office;
 2. The date of filing the same;
 3. The time and place when and where the Council will hear all objections and remonstrances that may be made in writing or may be made verbally to the assessment roll and to the proposed assessments by the parties thereby aggrieved; and
 4. Any objection or remonstrance to the regularity, validity and correctness of the proceedings, of said assessment roll, of each

- B,4) assessment contained therein, and of the amount thereof levied on each tract shall be deemed waived unless filed in writing on specific grounds. The burden of showing the Council that the benefits to the property assessed and consequently the proposed assessment are less than that shown in the assessment roll shall rest upon the owner of the tract or by any person making such objection. (Ord. 74-108; 1968 Code § 12-114)

19-8-205: ASSESSMENT HEARING: At the time and the place as designated, the Council shall hear and shall determine any written objection or remonstrance filed as hereinabove provided, any verbal views expressed in respect to the proposed assessments, to the assessment roll, or the assessment procedure; and the Council may adjourn the hearing from time to time. The Council by resolution shall have power in its discretion to revise, correct, confirm or set aside any assessment and to order that such assessment be made de novo. (Ord. 74-108; 1968 Code § 12-115)

19-8-206: LEVY OF ASSESSMENTS: After the assessment roll is in final form and is so confirmed by resolution, the Council by ordinance shall levy the assessments in said roll. Such decision, resolution and ordinance shall be a final determination of the regularity, validity and correctness of the proceedings, of the assessment plat, of said assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract. Such determination by the Council shall be conclusive upon the owners of the property assessed. The assessment roll shall be prima facie evidence in all courts and tribunals of the regularity of all proceedings preliminary to the making thereof and the validity of the assessments and the assessment roll. (Ord. 74-108; 1968 Code § 12-116)

19-8-207: APPEAL OF ADVERSE DETERMINATION: Within the fifteen (15) days immediately succeeding the publication of said assessment ordinance, after final passage, any person who has filed an objection or remonstrance on specific grounds in writing, as hereinbefore provided, shall have the right to commence an action or a suit in any court of competent jurisdiction to correct or to set aside such determination. Thereafter all actions or suits attacking the regularity, validity

and correctness of the proceedings, of the assessment plat, of said assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract, including, without limiting the defense of confiscation, shall be particularly barred. (Ord. 74-108; 1968 Code § 12-117)

apply to public mall improvement districts and assessments levied therein and such Sections are incorporated herein by reference thereto. (Ord. 74-108; 1968 Code § 12-119)

19-8-208: PAYMENT PERIOD; DEFERRED PAYMENTS:

- A. All assessments made in pursuance of the assessment ordinance shall be due and payable without demand within thirty (30) days after its publication upon its final passage. Each such assessment of any part thereof may at the election of the owner be paid in installments with interest as provided in Section 19-7-708 of this Code.
- B. Failure to pay the whole assessment within said period of thirty (30) days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installments the amount of the assessment then unpaid. All persons so electing to pay in installments shall be conclusively considered and held as consenting to the public mall project for which each such assessment was levied, and such election shall be conclusively considered and held as a waiver of any and all rights to question the power or jurisdiction of the City to acquire or to improve the public mall project, the quality of the work, the regularity or sufficiency of the proceedings, or the validity or the correctness of the assessment.
- C. The owner of any tract assessed may at any time pay the whole unpaid principal and the interest accrued to the next interest payment date, together with any prepayment premium and penalties, if any. Subject to the foregoing provisions, all installments, both of principal and interest, shall be payable at such times as may be determined in and by the assessment ordinance. (Ord. 74-108; 1968 Code § 12-118)

19-8-209: ASSESSMENT LIENS; FURTHER PROCEDURES: The provisions of Sections 19-7-108, 19-7-109, 19-7-112, 19-7-703, 19-7-704, 19-7-705, 19-7-707, 19-7-708, 19-7-709, 19-7-710, 19-7-711, 19-7-712, and 19-7-713, shall

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 8 PUBLIC MALL PROJECTS

PART 3 PUBLIC IMPROVEMENT BONDS

SECTION:

- 19-8-301: Bonds Authorized
- 19-8-302: Use of Assessments; Payment of Bonds
- 19-8-303: Remedies
- 19-8-304: Early Hearings
- 19-8-305: Decision of Council Final
- 19-8-306: Correction of Faulty Notices
- 19-8-307: Correction of Errors in Proceedings
- 19-8-308: Commence Actions Against Proceedings
- 19-8-309: Retention of Jurisdiction
- 19-8-310: Delegated Powers
- 19-8-311: Savings Clause

19-8-301: **BONDS AUTHORIZED:** Following the cash payment period set forth in Section 19-8-208 hereof, the City Council shall have the power to issue public improvement bonds in an amount not exceeding the total unpaid assessments levied to pay the cost of any public mall project, however acquired, all as provided in Article 7, Part 5 of this Chapter. (Ord. 74-108; 1968 Code § 12-120)

19-8-302: **USE OF ASSESSMENTS; PAYMENT OF BONDS:** The assessments when levied shall be and shall remain a lien on the respective tracts assessed until paid. Following the close of the cash payment period provided in Section 19-8-208, when assessments are collected, principal, interest and any prepayment premium or penalty, they shall be placed in a special fund and as such shall at all times constitute a sinking fund for and be deemed specially appropriated to the payment of the bonds and the interest thereon and shall not be used for any other purpose until the bonds and the interest thereon are fully paid; or if no bonds be issued, all assessments upon their payment shall be so appropriated and so used to defray the cost of the public mall project. (Ord. 74-108; 1968 Code § 12-121)

19-8-303: **REMEDIES:**

A. Subject to any contractual limitations binding upon the holders of any issue, any holder of bonds or trustee therefor shall have the right and power for the equal benefit and protection of all holders of bonds similarly situated:

1. By mandamus or by other suit, action or proceeding at law or in equity to enforce his rights against the City and against its Council and any of its officers, agents and employees and to require and to compel the City or its Council or any such officers, agents or employees to perform and to carry out its and their duties, obligations or other commitments under this Chapter and under its and their covenants and agreements with the bondholders;

2. By action or by suit in equity to require the City and its Council to account as if they were the trustees of an express trust;

3. By action or by suit in equity to have appointed a receiver, which receiver may take possession of any accounts and may collect, receive and apply all revenues or other moneys pledged for the payment of the bonds in the same manner as the City itself might do;

4. By action or by suit in equity to enjoin any acts or things which might be unlawful or might be in violation of the rights of the bondholders; and

5. To bring suit upon the bonds.

B. No right or remedy conferred by this Chapter upon any holder of bonds or any trustee therefor is intended to be exclusive of any other right or remedy, but each such right or remedy is cumulative and is in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this Chapter or by any other law. The failure of any bondholder so to proceed as herein provided shall not relieve the

- B) City, its Council, or any of its officers, agents and employees of any liability for failure to perform or to carry out any duty, obligation or other commitment. (Ord. 74-108; 1968 Code § 12-122)

19-8-304: EARLY HEARINGS: All cases in which there may arise a question of validity of any power herein granted or of any other provision hereof shall be advanced as a matter of immediate public interest and concern and shall be heard at the earliest practicable moment. The courts shall be open at all times for the purposes hereof. (Ord. 74-108; 1968 Code § 12-123)

19-8-305: DECISION OF COUNCIL FINAL: The action and decision of the Council proceeding hereunder as to all matters passed upon by the Council in relation to any action, matter or thing provided herein shall be final and conclusive. (Ord. 74-108; 1968 Code § 12-124)

19-8-306: CORRECTION OF FAULTY NOTICES: In any case where a notice is provided for herein, if the Council or the court finds for any reason that due notice was not given, the Council or the court shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or abated; but the Council or court shall order due notice to be given and shall continue the hearing until such time as notice shall be properly given and thereupon shall proceed as though notice has been properly given in the first instance. (Ord. 74-108; 1968 Code § 12-125)

19-8-307: CORRECTION OF ERRORS IN PROCEEDINGS: It shall be the duty of the Council, and it shall have the power by any subsequent proceedings, to correct any mistakes, errors or irregularities in any of the proceedings mentioned herein. (Ord. 74-108; 1968 Code § 12-126)

19-8-308: COMMENCE ACTIONS AGAINST PROCEEDINGS: Except as provided by Sections 19-8-107 and 19-8-209, all actions legal or equitable for relief against any other or further proceedings had under this Chapter whether based upon irregularities or jurisdictional defects, shall be commenced within thirty (30) days after the wrongful

act complained of, or else be thereafter perpetually barred. (Ord. 74-108; 1968 Code § 12-127)

19-8-309: RETENTION OF JURISDICTION: The Council may continue the hearing upon any resolution or remonstrance provided for herein and shall retain jurisdiction over the acquiring or improving of any project, the levy of any assessment, or the issuance of any bond or any other matter provided for herein by reason of any adjournment or any delays, errors, mistakes or irregularities on the part of any Councilman or any City officer or any person or persons whatsoever. (Ord. 74-108; 1968 Code § 12-128)

19-8-310: DELEGATED POWERS: The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Chapter. (Ord. 74-108; 1968 Code § 12-129)

19-8-311: SAVINGS CLAUSE: The adoption of this Article shall not be construed to repeal or in any way affect or modify any substantive or vested right, any law authorizing the issuance of any outstanding special assessment local improvement bonds of the City, any law pursuant to which special assessments levied by the City have not been paid in full, principal, interest and any penalties, and the running of any statute of limitation in force at the time this Article becomes effective. (Ord. 74-108; 1968 Code § 12-130)

CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS

ARTICLE 9 SPECIAL IMPROVEMENT DISTRICTS MAINTENANCE AND SECURITY OF PUBLIC IMPROVEMENTS

SECTION:

19-9-101: Purpose
 19-9-102: Organization
 19-9-103: Contents of Petition
 19-9-104: Validity
 19-9-105: City Council Action
 19-9-106: Hearing
 19-9-107: Termination
 19-9-108: Annual Levy
 19-9-109: Boundaries
 19-9-110: Provision for Lien
 19-9-111: Advisory Committee
 19-9-112: Obligation of City

19-9-101: **PURPOSE:** The City Council shall have the power and authority to establish, by ordinance, special improvement districts, for the purpose of maintenance and security of public improvements including, but not limited to, streets, utilities, lighting, sidewalks, drainage, parking and off-street parking systems, and traffic control devices. (Ord. 79-18; 1968 Code § 12-131)

19-9-102: **ORGANIZATION:** The organization of a district shall be initiated only by a petition filed with the City Clerk. The petition shall be signed by not less than a majority of persons who own real property in the district. For purposes of this Section, a corporation or partnership shall be considered one person. After the filing of a petition, no signer shall be permitted to withdraw his name from the petition. (Ord. 79-18; 1968 Code § 12-131.1)

19-9-103: **CONTENTS OF PETITION:** The petition shall set forth:

- A. The name of the proposed district.
- B. A general description of the boundaries of the district with such certainty as to enable a property owner to determine whether or not his property is within the district.

- C. A general description of the improvements to be maintained within the district.
- D. A general description of the measures deemed appropriate for the security of the public improvements
- E. The estimated yearly cost of maintaining and securing the improvements.
- F. The mill levy required by the district to meet the cost of maintaining and securing the improvements.
- G. A request for organization of the district. (Ord. 79-18; 1968 Code § 12-131.2)

19-9-104: **VALIDITY:** Any petition having the requisite signatures shall be valid if in substantial compliance with the requirements of Section 19-9-103. The City Council may, at any time, permit the petition to be amended to correct any errors in the description of the district or in any other particular. (Ord. 79-240; 1968 Code § 12-131.3)

19-9-105: **CITY COUNCIL ACTION:** After the filing of the petition, the City Council shall set a date not less than thirty (30) or more than sixty (60) days after the petition is filed for a hearing thereon. The City Clerk shall cause a notice of the hearing to be published at least ten (10) days prior to the hearing. The City Clerk shall also mail a copy of the notice of the hearing to each owner of record of real property within the proposed district. The notice of hearing shall set forth the boundaries of the proposed district, the fact that all property in the district is subject to the lien of the indebtedness, and shall set forth the amount of the mill levy required to meet the cost of maintaining and securing the improvements as set forth in the petition. (Ord. 79-240; 1968 Code § 12-131.4)

19-9-106: **HEARING:** Upon the hearing, if it appears that the petition has the requisite number of signatures, and that the allegations of the petition are true, the City Council shall, by ordinance,

establish the district. If the City Council shall find that the petition has not been signed by the requisite number or if in the opinion of the City Council the proposed mill levy is excessive in relation to the benefit conferred, it shall dismiss the petition. The finding of the City Council on accepting or dismissing a petition shall be final and conclusive and no appeal shall lie from a determination to accept or dismiss the petition, provided, however, that nothing in this Section shall be construed as preventing the filing of subsequent petitions for similar improvements or a similar district. In establishing a district the City Council shall determine the public improvements to be maintained and secured, the amount of money necessary to be raised by a levy on the taxable real property in the district, and shall fix a rate of levy which, when levied upon every dollar of the valuation for assessment of taxable real property within the district, shall raise the amount required by the district during the ensuing fiscal year to meet the cost of maintaining and securing the public improvements. The mill levy shall not exceed the mill levy requested in the petition. (Ord. 79-240; 1968 Code § 12-131.5)

19-9-107: TERMINATION: The district so created shall continue in effect until a request to terminate the district by a petition signed by not less than a majority of persons who own real property in the district shall be filed with the City Clerk. If the City Clerk shall so certify that the petition contains the requisite number of signatures, the City Council shall set a date not less than thirty (30) nor more than sixty (60) days after the petition is filed for a hearing thereon. The City Clerk shall cause a notice of the hearing to be published at least ten (10) days prior to the hearing. The City Clerk shall also mail a copy of the notice of hearing to each owner of record of real property within the district. Upon the hearing the City Council shall determine whether to dissolve the district or keep the district in effect. If the City Council determines to dissolve the district, it shall by ordinance declare the district dissolved. The finding of the City Council on dissolving the district or keeping the district in effect shall be final and conclusive and no appeal shall lie from such a determination. If the City Council determines to keep the district in existence, no further petition to dissolve the district shall be considered for one year. (Ord. 79-18; 1968 Code § 12-131.6)

19-9-108: ANNUAL LEVY: As long as the district shall remain in effect, the City Council

shall, no later than October 1 of each fiscal year, determine for the ensuing fiscal year the public improvements to be maintained, the appropriate measures for the security of the public improvements, the amount of money necessary to be raised by a levy of taxable real property in the district, and shall fix a rate of levy which, when levied upon every dollar of the valuation for assessment of taxable real property within the district, shall raise the amount required by the district during the ensuing fiscal year to meet the cost of maintaining and securing the public improvements. The mill levy shall not exceed the mill levy set forth in the petition for creation of the district unless a subsequent petition signed by not less than a majority of those persons who own real property in the district requesting a higher mill levy is filed with the City Clerk. Upon the filing of such a petition, the City Council shall set a date not less than thirty (30) nor more than sixty (60) days after the petition is filed for a hearing thereon. The City Clerk shall cause a notice of the hearing to be published at least ten (10) days prior to the hearing. The City Clerk shall also mail a copy of the notice of hearing to each owner of record of real property within the district. Upon the hearing the City Council shall determine whether the petition has the requisite number of signatures and whether a higher mill levy is excessive in relation to the benefit conferred. The finding of the City Council to set a higher mill levy shall be final and conclusive and no appeal shall lie from such a determination. (Ord. 79-240; 1968 Code § 12-131.7)

19-9-109: BOUNDARIES: The boundaries of any district organized under this Article may be changed in the manner prescribed in this Section. The owners of property proposed to be included in the district, or if more than one tract of property, not less than a majority of persons who own the real property sought to be included, may file a petition with the City Clerk requesting that such property be included in the district. The petition shall describe the property owned by the petitioners and shall be verified. The City Clerk shall cause a notice of hearing on said petition to be published at least ten (10) days prior to the hearing on the petition by the City Council, which notice shall state the filing of such petition, names of petitioners, and descriptions of property sought to be included. The City Clerk shall also mail a copy of said notice to each owner of record of real property sought to be included in the district. The City Council, at the time and place mentioned, shall proceed to hear the petition and any

objections thereto. If the petition is granted, the City Council shall adopt an ordinance to that effect, and thereafter, said property shall be included in the district. (Ord. 79-18; 1968 Code § 12-131.8)

19-9-110: **PROVISION FOR LIEN:** All taxes levied under this Article together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute a lien, until paid, on and against the property taxed, and such lien shall be a lien as for all other general taxes. (Ord. 79-18; 1968 Code § 12-131.9)

19-9-111: **ADVISORY COMMITTEE:** The City Council may appoint an advisory committee consisting of owners of real property within the district, to advise the City Council on the public improvements within the district to be maintained and secured and any other matters concerned with the operation of the district. (Ord. 79-18; 1968 Code § 12-131.10)

19-9-112: **OBLIGATION OF CITY:** Except as otherwise provided in this Article the City is under no obligation to provide maintenance and service within said district higher than provided elsewhere in the City. (Ord. 79-240; 1968 Code § 12-131.11)

*CHAPTER 19 PUBLIC PROPERTY AND PUBLIC WORKS***ARTICLE 10 MISCELLANEOUS PUBLIC PROPERTIES***PART 1 PIONEERS' MUSEUM*

SECTION:

19-10-101: Board Members; Terms

19-10-102: Reserved

19-10-103: Appropriation

19-10-101: **BOARD MEMBERS; TERMS:** The control, operation and management of all property used for the purposes of the Pioneer's Museum and similar uses shall be in a Board consisting of seven (7) members, known as the Pioneers' Museum Board. Said board shall consist of five (5) citizens to be appointed by the City Council one of whom shall be the City Manager, one member to be appointed by the El Paso County Pioneers' Association and one member to be appointed by the Friends of the Pioneers' Museum.

Terms of service shall be for three (3) years or until successors are appointed. Vacancies shall be filled by the appointing bodies of unexpired terms, and new appointments shall be made by the appointing bodies upon expiration of said terms. All members of said Board shall be electors of the City. (Ord. 78-10; Ord. 85-149; 1968 Code § 1-163)

19-10-102: **Reserved.**

19-10-103: **APPROPRIATION:** The City Council, in its annual budget and appropriation ordinance for each year, shall make provision for the maintenance and operation of said property. (Ord. 1534; 1968 Code § 1-165)

CHAPTER 20
PUBLIC SAFETY

ARTICLE 1	FIRE BOARD OF APPEALS
ARTICLE 2	FIRE PREVENTION
Part 1	Fire Prevention Code
Part 2	Transportation of Flammable Liquids
ARTICLE 3	POLICE AND FIRE ALARM SYSTEMS
ARTICLE 4	HAZARDOUS MATERIAL INCIDENTS

CHAPTER 20 PUBLIC SAFETY

ARTICLE 2 FIRE PREVENTION

PART 1 FIRE PREVENTION CODE

SECTION:

20-2-101: Short Title
 20-2-102: Adoption of Fire Code and Appendices and Fire Code Standards
 20-2-103: Application and Interpretation of Provisions
 20-2-104: Definitions
 20-2-105: Amendments to Uniform Fire Code
 20-2-106: Penalties
 20-2-107: Sale of Copies

20-2-101: **SHORT TITLE:** This Part 1 may be known and cited as the Fire Prevention Code and Standards. (Ord. 86-156)

20-2-102: **ADOPTION OF FIRE CODE AND APPENDICES AND FIRE CODE STANDARDS:** Pursuant to part 2 of article 16 of title 31, C.R.S. (1977 Repl. Vol. 12, as amended) and pursuant to the Charter of the City there is hereby adopted by reference the Uniform Fire Code, 1985 Edition of the International Conference of Building Officials and Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California, 90601, including Appendices I-A, I-C, II-B, III-A, III-C, IV-A, V-A, VI-A, VI-C, VI-D, set forth therein but not adopting any of the appendices set forth therein. Said Appendices are deemed included as a part of any reference to the Uniform Fire Code or this Chapter. There is hereby adopted by reference the Uniform Fire Code Standards, 1985 Edition of the International Conference of Building Officials and the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California, 90601. Three (3) copies of the Uniform Fire Code and three (3) copies of the Uniform Fire Code Standards are now on file in the office of the City Clerk and may be inspected during regular business hours. The above Codes are being adopted as if set out at length, subject to modifications, additions or deletions as set forth in Section 20-2-105 of this Code. (Ord. 86-156)

20-2-103: **APPLICATION AND INTERPRETATION OF PROVISIONS:**

- A. Application. The Uniform Fire Code and the Uniform Fire Code Standards hereby adopted shall apply to every building or structure either within or outside the corporate limits of the City, the use of which the City has jurisdiction and authority to regulate.
- B. Interpretation. This Part 1 shall be so interpreted and construed as to effectuate its general purpose to make uniform the local fire regulations contained herein. Article and section headings of this Part 1 and of the adopted Uniform Fire Code and Uniform Fire Code Standards shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof. (Ord. 86-156)

20-2-104: **DEFINITIONS:**

- A. Wherever the word "jurisdiction" is used in the Uniform Fire Code, it shall be held to mean the City.
- B. Wherever the term "corporation counsel" is used in the Uniform Fire Code, it shall be held to mean the attorney for the City.
- C. Wherever the term "Bureau of Fire Prevention" or "Fire Prevention Bureau" is used in the Uniform Fire Code, it will be held to mean Division of Fire Prevention or Fire Prevention Division, respectively. (Ord. 86-156)

20-2-105: **AMENDMENTS TO UNIFORM FIRE CODE:** Said Uniform Fire Code Appendices as adopted are adopted subject to the following modifications, additions, or deletions as hereinafter set forth:

- A. Section 1.101: Addition to Section 1.101 the following:

"Any reference to the Uniform Fire Code, this Code or the Code includes Sections 20-1-101, 20-1-102, 20-1-103, 20-1-104, 20-2-101, 20-2-102, 20-2-103, 20-2-104, 20-2-201, 20-2-202, 20-2-203, 20-2-204, 20-2-205, 20-2-206, and 20-2-207 of this Chapter."

- B. Section 2.102: Delete Section 2.102 and substitute therefor the following:

"Section 2.102. The Chief with the approval of the Administrator, is authorized to make and enforce such rules and regulations for the prevention and control of fire and fire hazards as may be necessary from time to time to carry out the intent of this Code. Before such rules and regulations shall become effective, the same shall be approved by the City Council. Three (3) copies of such rules and regulations shall be filed with the City Clerk and additional copies shall be kept in the office of the Fire Department for distribution to the public. Nothing in this Section shall be construed to apply to the making or enforcement of Civil Service Rules and Regulations pertaining to the Fire Department or other rules and regulations pertaining to the administration of the Fire Department and the development and conduct of fire fighting personnel."

- C. Section 2.104. Delete Section 2.104 and the title to said section and substitute the following:

"Section 2.104. Chief of Fire Prevention.

(a) The Chief may designate a member of the Fire Department to exercise the powers and perform the duties of the Fire Prevention Bureau Chief as set forth in this Code. He may also be known as the Fire Marshal or Fire Prevention Engineer.

(b) The Chief of the Fire Department may detail to the Bureau of Fire Prevention such members of the Fire Department as may from time to time be necessary."

- D. Section 2.105. Add to Section 2.105 the following:

"The Fire Chief may, at his discretion, authorize the Building Official to assist in his enforcement of this Code from time to time."

- E. Section 2.201. Add a subsection (c) to Section 2.201 to read as follows:

(c) Inspection Charge - For inspecting the original installation of any tank to be used for storing flammable or combustible liquids, a charge of fifteen dollars (\$15.00)."

- F. Section 2.202(b). Delete Section 2.202(b) and substitute the following:

Section 2.202(b). The Police Department shall assist the Fire Department in its investigation whenever requested to do so."

- G. Section 2.302. Delete Section 2.302.

- H. Section 4.101. Add after the first sentence of Section 4.101 the following:

"It shall be unlawful for the owner of a covered mall or his agent to use a covered mall for which a permit is required by this Code without first having obtained such permit. The owner of such covered mall or his agent shall apply for such permit. Once a permit has been obtained by the mall owner or his agent the exhibitor in the mall shall not be required to obtain a permit.

Add to Section 4.101 subsection (a) to read as follows:

(a) The following activities set forth in Section 4.101 are hereby deleted from the requirement of a permit from the Bureau of Fire Prevention as set forth in the following titles under Section 4.101:

Aircraft Refueling Vehicles
Aircraft Repair Hangar
Automobile Wrecking Yard
Candles and Open Flames in Assembly Areas
Cellulose Nitrate Storage
Combustible Fiber Storage
Compressed Gases, Flammable
Dry Cleaning Plants
Dust Producing Operations
Excavations Near Flammable or Combustible
Liquid Pipelines
Fruit Ripening
Fumigation or Thermal Insecticidal Fogging
Garages
Highly Toxic Pesticides
High Piled Combustible Stock
Junk Yards

- H) Liquefied Petroleum Gases
Lumber Yards
Magnesium Working
Matches
Nitrate Film
Oil and Natural Gas Wells
Open Flame Devices in Marinas
Organic Coating
Ovens Industrial Baking or Drying
Parade Floats
Places of Assembly
Radioactive Materials
Radium
Refrigeration Equipment
Spraying or Dipping
Tank Vehicles
Tire Recapping
Waste Material Handling Plant
Welding and Cutting Operations"

Subsections A and B of item #18, Flammable or combustible liquids and tanks.

Section 4.101 is hereby amended by adding the following permit to Permits Required under Section 4.101:

"48. Automatic Fire-Extinguishing Systems or Standpipe Systems, as defined in Section 88.102 of the Uniform Fire Code. To enlarge, remodel, alter, repair, move, improve, remove, demolish or change any automatic fire extinguishing systems or standpipe systems as defined in Section 88.102 of the Uniform Fire Code. See Article 88.

49. Fire Detection System. As defined in subsection 10.301(f) of the Uniform Fire Code. To enlarge, remodel, alter, repair, move, improve, remove, demolish, or change any fire detection system as defined in subsection 10.301(f) of the Uniform Fire Code except where such permit is not required pursuant to this subsection. See Section 10.301(f)."

- I. Section 4.102. Add the subsections to Section 4.102 to read as follows:

"(d) No permit shall be issued for a period longer than one year.

(e) If a permit is to be issued, the Fire Prevention Bureau shall direct the applicant to pay to the City Clerk an application fee of five (\$5.00) dollars and a permit fee of ten (\$10.00) dollars

- I) shall be charged for the renewal of all permits eligible for renewal. If application for renewal is not made prior to the expiration of the permit, the application shall be treated as an application for a new permit and a five (\$5.00) dollar application fee and a ten (\$10.00) dollar permit fee shall be paid. The City Clerk is hereby authorized to designate the Fire Department as its agent for collection of fees provided herein.

(f) Subsection 4.102(e) shall not apply to permits issued for automatic fire-extinguishing systems or standpipe systems, as defined in Section 88.102 of the Uniform Fire Code by the Fire Department pursuant to Article 88 of the Uniform Fire Code, or for permits for fire detection systems as defined in Section 10.301(f) of the Uniform Fire Code. The Fire Department is authorized to collect all fees provided for in Article 88 and Section 10.301(f) of the Uniform Fire Code.

(g) The permittee shall indemnify the City, its officers, agents and employees against any claim or liability arising from or based on the violation of this Code or any other applicable law or regulation caused by any actions or omissions of the permittee arising out of the exercise of the activity authorized by the permit."

- J. Section 10.205(a). Delete subsection 10.205(a) and substitute the following:

"Section 10.205(a) General. The chief may install or require to be installed one or more gates, cables or other barricades and securely lock the same to prevent the use by unauthorized persons of any road that is not a public highway and over which the Fire Department has the right to pass, whether by easement, license, municipal ownership or otherwise, for purposes relating to fire prevention or control, provided such action does not preclude the authorized users of such road or trail from using the same.

- K. Section 10.207(h). Delete Subsection 10.207(h) and substitute the following:

"(h) Turnarounds. All dead-end fire apparatus access roads in excess of 200 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

- L. Section 10.208. Delete Section 10.208 and substitute the following:

- L) (a) Officially approved numeric addresses shall be placed on all new and existing structures, including single-unit and multi-unit residential structures, in such a location and position as to be plainly visible and legible from the street, road, fire lane or other right-of-way or easement fronting the structure.

(b) Except as hereinafter set forth, such officially approved numeric addresses shall be represented by numbers that are a minimum of five inches (5'') in height with no less than one-half inch ($\frac{1}{2}$ '') stroke so as to be plainly visible and legible from a distance of at least one hundred feet (100') from the structure.

1. EXCEPTION. Nonconforming as to size numeric addresses that were lawfully existing upon a single-unit or multi-unit residential structure at the time this dimensional requirement became effective may be continued in use except:

(A) Subsequent to a complaint by a party with a determined significant interest, when a determination is made by the Building Official that the requirements of Section 20-2-105L (Section 10.208 a and b) are not met, that is, the approved numeric address is not plainly visible and legible from the street, road, fire lane or other right-of-way or easement fronting the structure or is not plainly visible and legible from a distance of at least one hundred feet (100') from the structure; or

(B) When a building permit for any purpose whatsoever is issued for a single-unit or multi-unit residential structure with such a nonconforming as to size numeric address; or

(C) When a determination is made by any enforcement officer that a change in use, either in whole or in part, has occurred in a single-unit or multi-unit residential structure such that the use of such structure is no longer exclusively residential.

2. Exception. Any area occupied by tenants of a mall or shopping center, the main entrance to which is from the inside of the mall or shopping center, or any area used for other than single-unit or multi-unit residential occupancy which abuts a public courtyard or other public space

- L) shall be identified by numbers that are a minimum of four inches (4'') in height with no less than one-half inch ($\frac{1}{2}$ '') stroke so as to be plainly visible and legible from a distance of at least fifty feet (50') from the main entrance to the area.

3. Exception. If access to a premises is provided by a private or easement or if a structure or portion of a structure is obscured by another structure or other feature, either natural or man-made, or a premises is located on the interior of a lot or block, then the numeric address shall, in addition to meeting the requirements of Section 20-2-105L (Section 10.208), be posted in a permanent manner and forever maintained at a location in the nearby vicinity of the intersections of the private driveway or easement with a public street or at a location such that the numbers are plainly visible and legible and the existence of the premises or structure is reasonably indicated. The numbers shall be on a sign that is attached to a ground stake that does not exceed thirty inches (30'') in height or shall be on a portion of a permanent structure designed and used to house the mail box. Numbers painted or stenciled on a curb shall not serve to meet this requirement.

(c) Such officially approved numeric addresses shall be represented by numbers that are contrasting in color with their background, face the street named in the address and are plain block numerals.

(d) Such officially approved numeric addresses shall not, in any event, be represented by numbers that are affixed to any tree or obscured by vegetation or any other feature, natural or man-made.

(e) It shall be the responsibility of the property owner(s) to meet or cause to be met all of the requirements of this section. All numbers shall be forever maintained in such a manner as to comply with the requirements of this Section.

(f) A numeric address change shall be requested and may be approved by the Building Official in accordance with Section 16-1-507. It shall be the responsibility of the property owner(s) to ensure that within fifteen (15) days of the official notice of determination of numeric address as issued by the Building Official that the officially approved numeric address is posted in accordance with the requirements of this Section.

L) (g) It shall be unlawful for any person to alter, deface or remove any number placed on any premises in accordance with the requirements of this Section, except for repair or replacement of such number. Upon notice, actual or otherwise, repair or replacement of any number shall be completed within a twenty-four (24) hour time period.

M. Section 10.209. Delete Section 10.209 and substitute the following:

"Key Box. When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, or where a fire protection system is installed, the Chief may require a key box to be installed in an accessible location. The key box shall be a type approved by the Chief and shall contain keys to gain necessary access as required by the chief.

N. Section 10.301(c). Delete the first two paragraphs of subsection 10.301(c) and substitute the following:

"10.301(c) Water Supply: An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings are hereinafter constructed. Except for a single-family dwelling or a two-family dwelling as these terms are defined in Section 14-1-109 of the Code of the City of Colorado Springs 1980, as amended, when any portion of the building protected in excess of two hundred 200 feet from a water supply of a public street, there shall be provided, or when required by the Chief, on-site fire hydrants and mains capable of supplying the required fire flow. When any portion of the building which constitutes a single-family dwelling or a two-family dwelling as these terms are defined in Section 14-1-109 of the Code of the City of Colorado Springs 1980, as amended, is in excess of two hundred fifty feet (250') from a water supply on a public street, there shall be provided, when required by the Chief, on-site fire hydrants and mains capable of supplying the required fire flow.

Water supply. Water supply may consist of reservoirs, pressure tanks, elevated tanks, water

N) mains or other fixed system capable of supplying the required fire flow. In setting the requirements for fire flow, the Chief may be guided by the City of Colorado Springs Guide for Determination of Required Fire Flow."

O. Section 10.301(f). Fire Detection Systems. Add to Section 10.301 a new subsection (f) to read as follows:

"(f) Fire Detection Systems. The fire prevention division shall be notified of the installation of all fire detection systems. For the purpose of this Section fire detection system shall include heat, smoke, flame, fire-gas, combination and other fire detectors, as defined by the Standard on Automatic Fire Detectors, N.F.P.A. 72E, 1984 Edition, or any combination thereof.

No person nor the Federal, State, County, or City Government or any agency, subdivision or department thereof shall erect, construct, enlarge, remodel, alter, move, improve, remove, convert or change any fire detection system in any building or structure within the corporate limits of the City, or cause the same to be performed without first having obtained a permit for the specified work to be performed from the Colorado Springs Fire Department. All fees shall be paid prior to the issuance of the permit.

Drawings and specifications for the work to be performed shall be required prior to the issuance of a permit. Such drawings and specifications shall be reviewed by the Colorado Springs Fire Department prior to the issuance of a permit for the work to be performed. The installation of wiring and equipment in all fire detection systems shall be in accordance with N.F.P.A. 70, article 760, Fire Protection Signaling Systems, National Electrical Code. Fire detection systems which are not required by code may not be required to comply in their entirety with Uniform Fire Code Standards section 10-2, N.F.P.A. standard 72E or other sections of this Code.

The following reflects the permit fees for all new installations and for all alterations, additions, conversions and repairs. This table shall be used in conjunction with other types of fees as hereinafter designated.

O) TOTAL VALUATION	FEE
\$ 500.00 to \$8,000.00	\$32.00
8,000.00 and up	32.00 for the first \$8,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof

A permit fee shall not be required for fire detection systems installed in buildings of 2,500 square feet or less or for systems consisting of five or less detectors where the assessed valuation for either is less than \$500.00.

A plan review fee shall be paid at the time of submitting plans and specifications for review. All installations shall pay one-fourth of the permit fee.

Investigation fee. Work without a permit.

1. Investigation. Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

2. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this Code if a permit were issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from any prescribed by law.

3. Reinspection Fees. A reinspection fee of \$15.00 shall be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the Uniform Fire Code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the permit is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Fire Chief.

O) In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

The contractor is required to obtain a fire detection system permit card from the fire prevention division office and post it at the job site even though a permit fee is not required.

Each fire detection system shall be inspected and tested for initial approval and on a yearly basis thereafter. A record of the yearly test shall be maintained on the premises for verification by the Colorado Springs Fire Department.

EXCEPTION: Systems installed on single- or two-family residential dwellings."

P. Section 10.313(c). Delete Section 10.313.

Q. Division I of Article 11. Add new Section 11.117 to read as follows:

Section 11.117. Ashes, Receptacles Required. It shall be the duty of the owner or other agent having the control of same of every building where ashes are accumulated to furnish a non-combustible storage facility as a receptacle for said ashes; and it shall be the duty of such owner or agent, and also of every tenant and occupant of any building, to remove the ashes from such receptable when the same is filled. No ashes, except for those used in manufacturing, shall be kept or deposited in anything other than such noncombustible storage facility.

R. Section 11.103 through 11.116, inclusive. Delete Sections 11.103 through 11.116, inclusive.

S. Section 11.203(c). Add to Section 11.203(c) the following:

"Exception: In boiler rooms and mechanical rooms storage of combustibles, material or equipment may be allowed if: It is stored a minimum of five feet (5') from any flame-producing device or mechanical equipment, and it is stored in a neat and orderly manner, and it is maintained so as not to obstruct exits (see Article 12 and 81.108) Fire Protection Equipment (see Section 10.302) and Fire Department access as required by the Building Code and the Fire Code (see Section 81.109)."

- T. Sections 11.207 through 11.209, inclusive. Delete Sections 11.207 through 11.209, inclusive.

- U. Section 11.410. Delete Section 11.410.

- V. Section 12.104. Delete Section 12.104 and substitute the following:

“Section 12.104(a) General. Doors provided for egress purposes shall be maintained as provided in this Article.

(b) Type of Lock or Latch. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort. Special knowledge or effort means any locking or latching device which requires use of more than one hand or more than one operation of the locking or latching device to unlock or unlatch and open the exit door.

EXCEPTION: Exit doors from buildings or rooms having an occupant load of ten (10) or less may be provided with a night latch, dead bolt or security chain, provided such devices are openable from the inside without the use of a key, and mounted at a height not to exceed forty-eight inches (48”) above the finished floor.

(c) Manually operated edge- or surface-mounted flush bolts and surface bolts are prohibited. When exit doors are used in pairs and approved automatic flush bolts are used, the door leaf having the automatic flush bolts shall have no doorknob or surface-mounted hardware. The unlatching of any leaf shall not require more than one operation.

EXCEPTION: 1. The requirements of subsections 12.104(b) and 12.104(c) shall not apply to exterior exit doors in a Group B or Group H Occupancies if there is a readily visible, durable sign on or adjacent to the door stating “These doors to remain unlocked during business hours”. The sign shall be in letters not less than one inch (1”) high on a contrasting background. The use of this exception may be revoked by the Building Official for due cause.

2. The requirements of subsections 12.104(b) and 12.104(c) shall not apply to Group R, Division 3 Occupancies.

(d) Panic Hardware. Panic hardware, when installed, shall comply with the requirements of

- V) U.B.C. Standard No. 33-4, and the activating member shall be mounted at a height of not less than thirty (30) inches nor more than forty-four (44) inches above the floor. The unlatching force shall not exceed 15 pounds when applied in the direction of exit travel.

(e) Door Identification. Exit doors shall be so marked that they are readily distinguishable from adjacent construction.

(f) Blocking of Self-or Automatic-Closing Doors. It shall be unlawful to block, obstruct or otherwise impair the operation of any door required to be self or automatic closing”.

- W. ARTICLE 13. Add to Article 13 a new Section 13.106 to read as follows:

“Section 13.106. No Smoking Elevators. It shall be unlawful for any person to smoke in any elevator in the City of Colorado Springs.”

- X. Section 24.102. Delete Section 24.102.

- Y. Division II of Article 25. Delete Division II of Article 25.

- Z. Division III of Article 25. Delete Division III of Article 25.

- AA. Division IV of Article 25. Delete Division IV of Article 25.

- AB. Section 25.117. Add the following sentence to the end of Section 25.117:

“Whenever the owner or lessee shall employ firemen as required in this Section, the owner or lessee shall pay the salary or other costs attributable to employment of the firemen as provided in this Section. Payment shall be made to the City of Colorado Springs prior to the scheduled activity or performance based upon the Fire Department’s estimate of the anticipated number of firemen required and other costs attributable to such activity or performance.”

- AC. Section 27.102. Delete Section 27.102.

- AD. Section 28.102. Delete Section 28.102.

- AE. Section 29.102. Delete Section 29.102.

- AF. Section 29.103. Delete Section 29.103 and substitute the following:

AF) "Section 29.103(a). Class I flammable liquid shall not be used in or in connection with any garage for washing parts or removing grease or dirt, unless in a special closed machine approved for the purpose or in a separate well-ventilated room constructed in accordance with the provisions of the Building Code for a Group H, Division 2 Occupancy.

(b) Class I flammable liquid shall not be used for cleaning floors or walls.

AG. Section 29.105(b). Amend Section 29.105(b) to read as follows:

"(b) Other devices generating a glow, spark or flame capable of igniting flammable vapors shall not be installed or used within five feet (5') six inches (6'') of the floor or in any H or B-1 occupancy.

EXCEPTION: Electrical heating units designed for class I division I locations may be approved for use at floor level.

AH. Section 30.101. Delete Section 30.101.

AI. Section 31.102. Delete Section 31.102.

AJ. Section 33.102. Delete Section 33.102.

AK. Section 34.102. Delete Section 34.102.

AL. Section 45.102. Delete Section 45.102.

AM. Section 45.104. Delete Section 45.104.

AN. Section 45.202(b). Delete Section 45.202(b) and substitute therefor the following:

"(b) In other occupancies, all spraying operations performed inside of a building shall be conducted in an approved spray booth, spraying area or spraying room approved for such use. Spot spraying shall be allowed outside of an approved spray booth if the following conditions are met:

(1) The area used for spot spraying must be built and maintained in accordance with the Building Code requirements for a Group H, Division 4 Occupancy.

(2) The size of the job to be done in such area shall not exceed nine (9) square feet and shall not be of a continuous nature.

AN) (3) The area used for spot spraying must be located within a building which there is constructed a paint spray booth which meets the requirements of this Code.

(4) The use of this exception may be revoked by the Chief of the Fire Department for good cause."

AO. Section 45.204(e). Delete Section 45.204(e) and substitute the following:

"(e) Space within a spray booth on the downstream and upstream sides of filters shall be protected with approved automatic sprinklers or dry chemical extinguishing system."

AP. Section 45.207. Delete Section 45.207.

AQ. Section 45.208(h). Add to Section 45.208(h) the following:

"EXCEPTIONS: When quantity of liquid is in five gallon or smaller containers, bonding between the two containers shall not be required.

AR. Section 45.209(a). Add Section 45.209(a) the following:

"An approved automatic fire extinguishing system shall consist of either an approved automatic water sprinkling system or an approved automatic dry chemical system."

AS. Section 46.102. Delete Section 46.102.

AT. Section 47.102. Delete Section 47.102.

AU. Section 48.102. Delete Section 48.102.

AV. Section 49.101(c). Delete Section 49.101(c).

AW. Section 50.103. Delete Section 50.103.

AX. Section 61.106(c). Delete Section 61.106(c) and substitute the following:

"(c) Where Permitted. The use of listed portable unvented oil-burning heating appliances shall be limited to supplemental heating in one- and two-family residential dwellings; and M occupancies."

AY. Section 62.102. Delete Section 62.102.

AZ. Section 63.103. Delete Section 63.103.

BA. Section 74.103. Delete Section 74.103.

BB. Section 75.103. Delete Section 75.103.

BC. Section 77.105. Delete Section 77.105 and substitute the following:

"Before a permit is issued, as required by Section (a) 3, of Section 77.104, the applicant shall file with the jurisdiction a certificate of insurance showing public liability for all operations involving explosives and automobile liability for any vehicle used for the transportation and/or storage of explosives with minimum limits of \$500,000 each occurrence bodily injury liability and \$500,000 each occurrence property damage liability or a \$1,000,000 combined single limit for bodily injury liability and/or property damage liability for the purpose of payment of all damages to personal and/or property which arise from, or are caused by the conduct of any act authorized by the permit upon which any legal judgment results. Said insurance policy shall provide protection for underground property damage and property damage resulting from collapse and explosion. The certificate of insurance shall guarantee 30 days' written notice to the Chief of the Fire Department in the event of policy cancellation. The Chief may require a greater amount of insurance when, in his opinion, conditions warrant. Public agencies shall be exempt from this insurance requirement.

BD. Section 77.202(a). Delete Section 77.202(a) and substitute the following:

Section 77.202(a). The Chief may authorize the storage of smokeless powder not to exceed 800 pounds, black sporting powder not to exceed 50 pounds or small arms or primers not to exceed 750,000 primers in approved establishments. Smokeless powder exceeding 400 pounds shall be stored in an approved Class II magazine. Black sporting powder, when authorized, shall be stored in an approved Class II magazine. Small arms primers shall be stored in a manner prescribed by the Chief."

BE. Section 77.202(b). Delete Section 77.202(b) and substitute the following:

"Section 77.202(b). The display or storage of smokeless powder shall be only in original containers and shall not exceed twenty (20) pounds. Storage in excess of twenty (20) pounds of smokeless powder shall be in a Class II magazine.

BF. Section 77.301(f). Delete Subsection 77.301(f) and substitute the following:

"77.301(f). Before blasting, a minimum of 72 hours advanced notice must be given to the fire prevention division of the Colorado Springs Fire Department. All residents within a radius of 500 feet of the blast or such greater distance as the Fire Department may determine based upon information supplied by the permittee to the Fire Department shall be notified and warned of the possible effects of the explosion. Such notification and warning shall be done by the permittee. Notification may be by personal contact, telephone or written notice. Prior to the blast, the permittee shall certify to the Fire Department that notice has been provided in accordance with this Section. In the event that the permittee determines that possible injury or damage could occur beyond the 500-foot radius or such other distance as determined by the Fire Department, the permittee shall notify those persons within such area. In an emergency, this time limit and the requirements of Section 77.308 may be waived by the Chief. In the event the permittee demonstrates to the Chief that the 72-hour time limit imposes an unnecessary hardship upon the permittee, the Chief may reduce or waive this 72-hour time requirement provided that the Chief determines that any reduction or waiver of the 72-hour time limit will allow adequate review of the proposed blasting and will not jeopardize public safety.

BG. Division 3 of Article 77. Add the following section:

"77.308: Blasting Activity Requirements. The use and handling of explosives or blasting agents will meet with the provisions of Section 77.301 of the Uniform Fire Code, 1985 Edition, as amended.

Within the time limits provided in subsection 77.301(f) the Colorado Springs Fire Department Fire Prevention Division will be notified prior to any blasting operations with the City limits of Colorado Springs. At the time of notification, a shot plan will be submitted to the Fire Department. The shot plan will consist of a plot plan of the blast area and will include the following items:

- Name of blaster and name of supervisor.
- Distance to gas, water, electric, telephone, fire alarm, telegraph, or steam utilities.
- Distance to radio and radar transmitters.
- Distance to streets, roads, highways, or other public ways.

- BG) -Distance to buildings and residences in proximity to the blast area.
 -Placement of charges.
 -Type of detonation to be used (fuse, electric blasting caps, delay, etc.).
 -Amount of explosive or blasting agent to be used.
 -Type of explosive or blasting agent to be used.
 -Size of holes (if applicable).
 -Type of blasting operation (blasting for holes, ditches, demolition, etc.).
 -Method for storage of explosives on site in conformity with the requirements of Section 77.201.
 -Mode of transporting explosives to the site.
 -Method of protection for flying debris (blasting mat, etc.).

The Colorado Springs Fire Department shall review the shot plan. The Chief shall disapprove any shot plan which is incomplete or which indicates the likelihood that public safety will be jeopardized.

- BH. Division 3 of Article 77. Add the following section:

77.309. Blasting Permit Requirements:

The following procedures are required to obtain a blasting permit from the City of Colorado Springs.

- A copy of the permit request may be obtained from the Fire Prevention Division of the Colorado Springs Fire Department. The submittal of the permit must include the following:

- The storage site and location of explosive storage must be identified by address and site plan.
- Typical transportation routes in and out of the City must be identified.
- A resume to include name, address, blasting experience, evidence of formal training and copies of certificates or diplomas of blasting education for all personnel either supervising or conducting explosion activities. This resume shall demonstrate that these personnel are qualified through blasting experience,

- BH) formal training, or certificates or diplomas to conduct blasting operations without jeopardizing public safety.

- A copy of the state blasting permit must be submitted.

- A certificate of insurance in compliance with the requirements of Section 77.105.

- Five (5) working days are required for permit review and approval or disapproval.

- BI. Section 79.103. Delete Section 79.103.

- BJ. Section 79.114(d). Delete Section 79.114(d) and substitute the following:

"Above ground tanks out of service for 90 days. Any above ground tank which has been abandoned for a period of 90 days shall be removed from the property in a manner approved by the Chief."

- BK. Section 79.501. Delete Section 79.501 and substitute the following:

"Section 79.501. The storage of Class I, Class II or Class III above-ground tanks outside of buildings is prohibited except as follows:

a. In the PIP-1, PIP-2, M-1 or M-2 zones of the City as provided for in Chapter 14 of the Code of the City of Colorado Springs 1980, as amended, provided that such above-ground storage is prohibited for service stations, retail sellers, and where such tanks are used for fueling or operation of motor vehicles, or

b. Where Class I or Class II liquid constitutes a hazardous waste defined by Federal law or regulation and whose underground storage is subject to Federal law or regulation or where the above-ground storage system is subject to Federal law or regulation."

- BL. Section 79.804. Delete Section 79.804, Item #1, and substitute the following:

"1. An automatic sprinkler system or approved dry chemical system shall be provided and be designed and installed in an approved manner for extrahazardous locations..."

- BM. Section 79.1007(a). Delete Section 79.1007(a) and substitute the following:

"Section 79.1007(a). General. Storage of Class I or Class II liquids in above-ground permanent tanks or 61- to 1100-gallon capacity and temporary tanks not exceed 660 gallon capacity shall be outside of buildings. Tanks shall be of single compartment design constructed in accordance with Section 79.105. Venting shall be in accordance with Sections 79.510(a) and (b)."

- BN. Article 79, Division 10. Add a new Section 79.1007(i) to read as follows:

"Section 79.1007(i). Temporary Permit for Storage. The storage of Class I, Class II or II-A, Flammable or Combustible Liquids in Portable Tanks, is prohibited; provided, however, the Chief is authorized to issue temporary permits for the above-ground storage of such fluids in tanks which shall not exceed 600 gallons in capacity for the purpose of providing fuel for equipment used in building construction, earth moving, earth grading or a similar operation. Such permits may be issued only for sites where such above-ground storage will not be within 50 feet of buildings, combustible materials or other fire hazards. Such a permit shall be issued only for the period of time reasonably necessary for the completion of the individual job for which the storage is necessary."

- BO. Sections 79.1101 through 79.1112, inclusive, Delete Sections 79.1101 through 79.1112, inclusive.

- BP. Section 79.1201. Delete Section 79.1201.

- BQ. Section 79.1206(b). Delete Section 79.1206(b) and substitute the following:

" b. Parking Off Thoroughfare. A tank vehicle shall not be parked at any point for longer than one hour except:

1. Inside a bulk plant and 25 feet from the property line or within a building approved for such use;

2. At other approved locations not less than 50 feet from any building except those approved for the storage or servicing of such vehicle;

- BQ) 3. When, in case of breakdown or other emergency, the operator must leave the vehicle to take necessary action to correct the emergency.

4. The locations specified in Subsection 79.1206(b)(1) and Subsection 79.1206(b)(2) which are not within a building approved for such use shall be enclosed with a fence not less than five (5) feet in height constructed of wire mesh, solid metal sheeting or masonry. Proper entry, parking and departure access shall be maintained for those parking locations. No persons shall load or unload or permit the loading or unloading of a tank vehicle within these parking locations unless such location is within a bulk plant."

- BR. Division XIV of Article 79, Section 79.1400. Add a new Section 79.1400 as follows:

"Section 79.1400. Location of Plants. No new above-ground plants shall be constructed within the City. Existing above-ground tanks shall be ordered removed if, in the opinion of the Fire Chief, they constitute a fire hazard through neglect or disrepair. All new bulk plants shall provide for underground storage facilities."

- BS. Section 79.1406. Delete Section 79.1406.

- BT. Section 79.1601 through 1610, inclusive. Delete Sections 79.1601 through 79-1610, inclusive.

- BU. Section 79.1701. Delete Section 79.1701.

- BV. Section 80.103(b). Add to Section 80.103(b) the following:

"3. Storage of hazardous materials in accordance with table nos. 51.110-A through E.

- BW. Section 81.103. Delete Section 81.103.

- BX. Section 81.105, Table 81.105. Delete under commodity category I-IV, Smoke detection systems column n/r and substitute: yes.

- BY. Article 81. Article 81 is amended by the addition of Section 81.112 as follows:

"Section 81-112(a). In any building as described

BY) in Table No. 81.105 that can accommodate high piled combustible stock but which is not intended to be used for high piled combustible stock at the time such building is constructed, the owner or the agent of the owner shall acknowledge on the plan submitted to the Regional Building Department for the building that in the event the building is used for high piled combustible stock, all requirements of the Uniform Fire Code, Article 81, including the approved installation of a standpipe system, shall be met."

(b) All fire protection systems installed including smoke, heat, rate or rise, and other systems shall be monitored systems.

BZ. Section 82.102. Delete Section 82.102.

CA. Section 83.101. Delete Section 83.101.

CB. Add a new Article 88. AUTOMATIC FIRE-EXTINGUISHING SYSTEMS.

"Article 88. Automatic Fire-Extinguishing Systems.

Section 88.101 Scope. This article shall apply to the installation or renovation of automatic fire-extinguishing systems or standpipe systems.

Section 88.102 Definitions.

(a) AUTOMATIC FIRE-EXTINGUISHING SYSTEMS. For the purposes of this Article include wet-pipe systems, dry-pipe systems, pre-action systems, deluge systems, and combined dry-pipe and pre-action systems as defined in Uniform Building Code Standard 38-1.

(b) STANDPIPE SYSTEMS. Standpipe Systems shall include Class I, Class II, Class III, and combined systems as defined in the Uniform Fire Code.

Section 88.103 PERMITS REQUIRED.

No person nor the Federal, State, county or City government, or any agency, subdivision or department thereof shall erect, construct, enlarge, remodel, alter, repair, move, improve, remove, convert, demolish or change any automatic fire-extinguishing system in any building or structure within the corporate limits of the City, or cause the same to be performed without first having obtained a permit for the specific work to be performed from the Colorado Springs Fire Department.

CB) EXCEPTION: All work performed on an emergency basis, as determined by the Fire Chief, to maintain an existing service or to maintain an existing installation where such maintenance is necessary to protect life or property, shall not be subject to the above provisions provided that application for such permits is made within seventy-two (72) hours after commencement of the emergency work.

Section 88.104 PLANS AND SPECIFICATIONS.

Drawings and specifications for the work to be performed shall be required prior to the issuance of a permit. Such drawings and specifications shall be reviewed and approved by the Colorado Springs Fire Department prior to the issuance of a permit for the work performed. All applications for a permit to construct, erect, alter or repair any automatic fire-extinguishing system or standpipe system shall be accompanied by a minimum of two (2) complete sets of drawings and specifications.

(a) Information required.

1. Drawings shall be drawn to scale upon substantial paper, plastic or cloth, and shall be of sufficient clarity to indicate the nature of the work proposed and show in detail that it will conform to the provisions of this Chapter and all relevant laws, ordinances, rules and regulations. The first sheet of each set of drawings and specifications shall give the building and street address of the work and the name and address of the firm or person who prepared them. Drawings shall include a plot plan showing the locations of proposed building, and fire lanes or access drives, and existing or proposed fire hydrants.

Working plans shall be drawn to an indicated scale, on sheets of uniform size, with plan of each floor, made so that they can be easily duplicated, and shall show the following data:

- (a) Name of owner and occupant.
- (b) Location, including street address.
- (c) Point of compass.
- (d) Ceiling construction.

- CB)
- (e) Full height cross section.
 - (f) Location of fire walls.
 - (g) Location of partitions.
 - (h) Occupancy of each area or room.
 - (i) Location and size of concealed spaces and closets.
 - (j) Any enclosures in which no sprinklers are to be installed.
 - (k) Size of city main in street, pressure and whether deadend, direction and distance to nearest circulating main, the city main test results.
 - (l) Other sources of water supply, with pressure or elevation.
 - (m) Make, type and nominal orifice size of sprinkler.
 - (n) Temperature rating and location of high temperature sprinklers.
 - (o) Total area protected by each system on each floor.
 - (p) Number of sprinklers on each riser per floor.
 - (q) Make, type, model and size of alarm or dry-pipe valve.
 - (r) Make, type, model and size of pre-action or deluge valve.
 - (s) Kind and location of alarm bells.
 - (t) Total number of sprinklers on each dry-pipe system, pre-action system, combined dry-pipe/pre-action system or deluge system.
 - (u) Approximate capacity in gallons of each dry pipe system.
 - (v) Pipe type and schedule of wall thickness.
 - (w) Nominal pipe size and cutting lengths of pipe (or center to center dimensions).

- CB)
- (x) Location and size of riser nipples.
 - (y) Type of fittings and joints and location of all welds and bends.
 - (z) Type and locations of hangers and sleeves.
 - (aa) All control valves, check valves, drain pipes, test pipes, and back flow preventers.
 - (bb) Size and location of hand hose, hose outlets and related equipment.
 - (cc) Underground pipe size, length, location, weight, material, point of connection to city main; the type of valves, meters and valve pits; and the depth top of the pipe is laid below grade.
 - (dd) Provision for flushing.
 - (ee) When the equipment is to be installed as an addition to an existing system enough of the existing system shall be indicated on the plan to make all conditions clear.
 - (ff) For hydraulically designed systems, the material to be included on the hydraulic data nameplate.
 - (gg) Name and address of contractors.
2. When the system is a hydraulically designed system the following information shall be provided:
- (a) All information indicated above.
 - (b) A summary sheet which contains the following information:
 1. Date.
 2. Location.
 3. Name of owner and occupant.
 4. Building number or other identification.
 5. Description of hazard.
 6. Name, address and phone number of contractor or designer.
 7. System design requirements to include design area, density, and area per sprinkler.
 8. Total water requirements as calculated.
 9. Water supply information.

CB) (c) Detailed worksheets or computer printout sheets which contain the following information:

1. Sheet number.
2. Sprinkler description and discharge constant (K).
3. Hydraulic reference points.
4. Flow in gpm.
5. Pipe size.
6. Pipe lengths, center to center of fittings.
7. Equivalent pipe lengths for fittings and devices.
8. Friction loss in psi per foot of pipe.
9. Total friction loss between reference points.
10. In rack sprinkler demand.
11. Elevation head in psi between reference points.
12. Required pressure in psi at each reference points.
13. Velocity pressure and normal pressure.
14. Notes to indicate starting points, reference to other sheets or to clarify data shown.
15. Sketch to accompany gridded system calculations to indicate flow quantities and directions for lines with sprinkler operating in the remote area.

(d) A graph sheet which indicates supply curves and system requirements, plus hose and in rack sprinkler demand when applicable, plotted on semi-logarithmic graph paper (Q 1.85) so as to present a graphic summary of the complete hydraulic calculation.

(b) Approval of Documents. Drawings complying with the provisions of the Uniform Fire Code, and approved by the Colorado Springs Fire Prevention Division, shall bear the Colorado Springs Fire Department stamp of approval on the first page thereof and each set of specifications. When corrections are required to be made, the Fire Chief may require that the drawings and specifications be revised and resubmitted for approval prior to the issuance of the permit. Approval of drawings and specifications shall not be construed to mean approval of any violation of the Uniform Fire Code if such violation is included in the approved drawing and specifications, and shall not relieve or exonerate any person from the responsibility of complying with the provisions of the Uniform Fire Code.

CB) (c) Distribution of Documents. At least one set of approved drawings and specifications shall be returned to the applicant to be kept on the job site at all times during which the authorized work is in progress and one approved set shall remain in the office of the Colorado Springs Fire Department and shall be retained for a period of not less than ninety (90) days after the date of completion of work.

(d) Return of Documents. Drawings and specifications submitted for checking, for which no permit is issued and on which no action is taken by the applicant for ninety (90) days, may be returned to the last known address of the applicant and a plan checking fee as provided here shall be assessed.

Section 88.105. Application for Permits.

Permits are required prior to the commencement of any work governed by this Article, and to obtain a permit the applicant shall first file an application therefor in writing on a form furnished by the Colorado Springs Fire Department. Every application shall contain the following:

1. Identify and describe the work to be covered by the permit for which an application is made.
2. Describe the street on which the proposed work is to be done, by street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Show the use or occupancy of all parts of the building.
4. Be accompanied by complete drawings and specifications as required in this Section.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or his authorized agent, who may be required to submit evidence to indicate such authority.
7. Give such other reasonable information as may be required by the Colorado Springs Fire Department.

When the work is started before a permit is issued, with the exception of work performed on an emergency basis pursuant to Section 88.102, the applicant shall be required to pay double the fees listed under Section 88.109 of this Article.

CB) Section 88.106 Authorized Applicants.

Only persons duly licensed or registered as an automatic fire sprinkler contractor or plumbing contractor under the terms and provisions of Article 6, of Chapter 16 of the Code of the City of Colorado Springs, 1980 as amended, may apply for a permit, and such licensees may apply for and be issued permits to perform only such work as they are entitled to perform under their respective licenses. Any applications for permit filed by a non-licensed individual, association or corporation where licensing is required pursuant to Article 16 of the Code of the City of Colorado Springs 1980, as amended, shall be null and void.

Section 88.107 Issuance of Permits.

(a) The application, drawing and specifications filed by an applicant for a permit shall be reviewed by the Fire Chief. Such documents may be reviewed by other departments of the City to ascertain compliance with the laws and ordinances under their jurisdiction. When the Fire Chief is satisfied that the work described in the application for a permit and the drawings and specifications filed therewith conform to the requirements of the Uniform Fire Code and other pertinent laws and ordinances, and that the fee specified in Section 88.109 of this Article has been paid, he shall issue a permit to the applicant. Under normal circumstances the Colorado Springs Fire Department shall issue the permit within ten (10) working days of application.

(b) When the Fire Chief issues the permit he shall endorse in writing or stamp on all sets of specifications and first page of the drawings "Acceptable" with the date and signature of the official giving approval. Such approved drawings and specifications shall not be changed, modified or altered without authorization from the Fire Chief, and all work shall be done in accordance with the approved document.

Section 88.108 Expiration of Permits.

Every permit issued by the Fire Chief under the provisions of this Code shall automatically become null and void if the installation or work authorized by such permit is not commenced within one hundred twenty (120) days. Before work can be recommenced a new permit shall be first obtained, and the fee therefor shall be one-half ($\frac{1}{2}$) the amount required a new permit;

CB) provided, no changes have been made or will be made in the original drawings and specifications and provided, further, that suspension or abandonment has not exceeded one year.

Section 88.109 Suspension or Revocation of Permit.

The Fire Chief may, in writing, suspend or revoke a permit issued under the provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any provisions of the Uniform Fire Code.

Section 88.110 Installation Fees.

The following reflects the permit fees for all new installations and for all alterations, additions, conversions and repairs. This table shall be used in conjunction with other types of fees as hereinafter designated.

TOTAL VALUATION	FEE
\$500.00 to \$8,000.00	\$32.00
\$8,000.00 and up	\$32.00 for the first \$8,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.

Section 88.111 Other Fees.

(a) Plans Examination. A plan review fee shall be paid at the time of submitting plans specifications for review. All installations shall pay one-fourth ($\frac{1}{4}$) of the permit fee.

(b) Investigation Fee. Work without a Permit.

1. Investigation. Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

2. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this Code if a permit were

CB) issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from any prescribed by law.

(c) Reinspection Fees.

1. A reinspection fee of \$15.00 shall be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the Uniform Fire Code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

2. Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Fire Chief.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

Section 88.112 Fee Refunds.

1. The Fire Chief may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The Fire Chief may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code.

3. The Fire Chief may authorize the refunding of not more than eighty percent (80%) of the plan review fee paid when an application for a permit for which a plan review has been paid is withdrawn or cancelled before any plan review effort has been expended.

Section 88.113 Expiration of Plan Review.

CB) Applications for which no permit is issued within one hundred eighty (180) days following date of application shall expire and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Fire Chief. The Fire Chief may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than one. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

Section 88.114 Inspection, General Requirements.

All work performed under the provisions of the Uniform Fire Code shall be subject to inspections by the Colorado Springs Fire Department and all inspections shall be requested at least forty-eight (48) hours in advance.

Section 88.115 Required Inspections.

(a) Without limitation, the Colorado Springs Fire Department shall make the following inspections of and shall either approve that portion of the work as completed or shall notify the permit holder or his agent wherein the same fails to comply with the requirements of the Uniform Fire Code.

1. It shall be the duty of the person requesting inspections regulated by this Code to provide access to and means for proper inspection. The Fire Chief shall not be liable for any expenses entailed in the removal or replacement of any material required to allow the inspection.

2. The following tests or inspections shall be made:

(aa) Flushing of underground mains and lead-in connections.

(bb) Hydrostatic tests.

(cc) Fire department connection tests.

(dd) System operation and flow test.

CB) (ee) Fire pump operation test.

(ff) Drainage facilities test.

3. The Fire Chief may allow a certification of compliance signed by an architect, engineer, or the project superintendent in lieu of any physical inspection to be performed by the Colorado Springs Fire Department.

4. There shall be a final inspection and approval on all systems when completed and ready for use and in addition to the inspections specified above, the Fire chief may, at any time, make other inspections of the work to ascertain compliance with the provisions of this Fire Code and other laws which are enforced by the Colorado Springs Fire Department.

Section 88.116 Work Covered Before Inspection.

Whenever any work is covered or concealed by additional work without first having been inspected as required, the Colorado Springs Fire Department may order, by written notice, that such work be exposed for examination.

Section 88.117 Supervision Requirement.

(a) Special Supervision. In addition to the inspections to be made as specified above, the owner or his agent shall, upon direction of the Fire Chief, employ a special inspector on special construction or work involving unusual hazards or requiring constant inspection. The special inspector shall be a qualified person approved by the Fire Chief and shall furnish continuous inspection on the construction work requiring his employment, and said inspector, or the architect or engineer employing the inspector, shall furnish a copy of his reports to the Fire Chief when so required.

1. Special inspection required by this Section and elsewhere in this Code shall not be required where the work is done on the premises of a fabricator, approved by the Fire Chief, to perform such work without special inspection. The certificate of approval shall be subject to revocation by the Fire Chief if it is found that any work done pursuant to the approval is in violation of the Fire Code.

CB) Section 88.118 Inspection Record Card.

Work requiring a permit shall not be commenced until the permit holder or his agent shall have posted an inspection record card in a conspicuous place on the front premises of the property and in such position as to allow the Fire Chief to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained in this location by the permit holder until all required inspections have been recorded.

Section 88.119 Approvals Required.

No work shall be done on any part of any automatic fire-extinguishing system or standpipe system beyond the point indicated in each successive inspection without first obtaining the approval of the Fire Chief."

CC. Appendix I-A. Delete Appendix I-A and substitute therefor the following:

"Appendix I-A. Life Safety Requirements for Existing Buildings.

1. Purpose. The purpose of this Appendix is to provide a reasonable degree of safety to persons occupying existing buildings that do not conform with the minimum requirements of this Code by providing for alterations to such existing buildings.

2. Smoke Detectors. Every dwelling unit and every guest room in a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, guest ranch or other place that furnishes sleeping accommodations shall be provided with smoke detectors installed in accordance with the Building Code provided that this shall not apply to apartments or other accommodations that are regularly leased for a month-to-month or longer tenancy. Compliance with this requirement shall be met within six (6) months after the effective date of this ordinance."

CD. Appendix III-A. Delete 3. Test Procedure for Standpipe Systems.

CE. Appendix III-C. In Paragraph 4, Definitions, delete subsection (c) and substitute the following:

CE) "Alarm signal is an audible and visual signal indicating the existence of an emergency fire condition. Audible devices shall be a horn. Visual devices shall be a pulsating light, as approved by the Fire Chief."

CF. Article 51. Article 51 is hereby adopted with the following additions, revisions and deletions:

"Section 51-102. Under definitions revise EMERGENCY CONTROL STATION to read as follows:

EMERGENCY CONTROL STATION Is an approved location on the premises of a Group H Division 6 Occupancy where signals from emergency equipment are received and which is continually staffed by trained personnel.

Section 51.102. Add a new definition to read as follows:

HPM FLAMMABLE LIQUID is a HPM liquid that is defined as being either flammable or combustible under the definitions listed in Article 9 of this Code.

Section 51.105(c). Delete Section 51.105(c) except for Table No. 51-105-A and substitute the following:

(c) Maximum Quantities of HPM. The average density of HPM within a single fabrication area shall not exceed the density as specified in Table No. 51.105-B. Nothing in this provision shall limit any single fabrication area from having a total quantity of HPM to an amount less than that specified in Table No. 51.105-A.

TABLE No. 51.105-B
PERMITTED QUANTITIES OF HPM IN A SINGLE GROUP H
DIVISION 6 OCCUPANCY-DENSITY BASIS¹²

State	Units	Flammable	Oxidizer	Corrosive
Solid	lb./sq. ft.	0.001	0.003	0.003
Liquid	gal./sq. ft.	0.04 ³	0.03	0.08
Gas	cf/sq. ft.	1.250	1.250	3.000

¹HPM within piping shall not be included in the calculated quantities.

²The maximum permitted quantities of flammable/toxic gases shall not exceed the quantity specified by Table No. 51.105-A.

³The maximum permitted quantities of flammable and combustible liquids shall not exceed the following quantities:

CF) Class (I-A) + (I-B) + (I-C)

Combination flammable liquids)..... = .025
however Class I-A shall not exceed.. = .0025
Class II..... = .01
Class III-A..... = .02

Section 51.106. Revise Subsections (a) and (b) to read as follows:

(a) Construction. Work stations within fabrication areas shall be constructed of materials compatible with the materials used at the station.

The portion of the work station that serves as a cabinet for hazardous gases and flammable liquids shall be noncombustible and if of metal shall be not less than 0.0478-inch (18 gage) steel. Hazardous gases and liquid containers within the work station shall be protected from seismic forces in an approved manner.

(b) Maximum Quantities of HPM. The HPM materials in use in a work station shall not exceed:

Flammables and Toxics Combined	gases	3 cylinders
	liquid	15 gallons
	solids	5 pounds
Corrosives	gases	3 cylinders
	liquids	25 gallons ¹
	solids	20 pounds
Oxidizers	gases	3 cylinders
	liquids	12 gallons ¹
	solids	20 pounds

¹An equal amount of nonflammable HPM liquid in reservoirs of filtering systems of connected materials in use shall be permitted.

Section 51.106(d). Revise Exception 3 as follows:

3. Exhaust ducts 10 inches or less in diameter from flammable gas storage cabinets that are part of the work station.

Section 51.107(b). Delete the third sentence and the exception.

Section 51.108. Add a subsection as follows:

5. HPM Pass-throughs in Exit Corridors. When pass-throughs are provided, self-closing doors having a fire protection rating of not less than

CF) one hour shall be installed between the pass-through and the existing exit corridor. The pass-through shall be fully enclosed with wall protection as required for the exit corridor. Pass-throughs shall be sprinklered."

CG. Section 9.110. Add a new definition to read as follows:

"HAZARDOUS GASES shall include all gases which meet the definition for HAZARDOUS MATERIALS and are not otherwise covered in this Code."

CH. Section 79.903(a). Add a new paragraph to read as follows:

"Where dispensing of Class I, II or III-A liquids is performed by someone other than a qualified attendant, a listed automatic-closing-type hose nozzle valve shall be used incorporating the following features:

1. The hose nozzle shall be equipped with an integral latch-open device.

2. When the flow of product is normally controlled by devices or equipment other than the hose nozzle valve, the hose nozzle valve shall not be capable of being opened unless the delivery hose is pressurized. If pressure to the hose is lost, the nozzle shall close automatically.

EXCEPTION: Vapor-recovery nozzles incorporating insertion inter-lock devices designed to achieve shutoff upon disconnect with vehicle fill pipe.

3. The hose nozzle shall be designed in such a way that the nozzle is retained in the fill pipe during the filling operation."

CI. Section 79.903(b). Amend exception to read as follows:

EXCEPTION: Supervision by a qualified attendant is not required at locations, provided:

1. The owner or operator provides and is accountable for:

(a) At least daily site visits.

(b) Regular equipment inspections and maintenance.

CI) (c) Conspicuously posting instructions for safe operation of dispensing equipment.

(d) Posting the phone number of the owner or operator.

2. A sign, in addition to that required in Section 79.902(h), is posted in a conspicuous location stating:

IN CASE OF FIRE OR SPILL

1. Use emergency pump shutoff!

2. Report the accident

Fire Department No. _____
Facility Address _____

3. Dispensing equipment complies with one of the following:

(a) The amount of fuel being dispensed is limited in quantity by a preprogrammed card, or;

(b) Dispensing devices shall be programmed or set to limit uninterrupted fuel delivery to 25 gallon and shall require a manual action to resume continued delivery, or;

(c) Product delivery hoses are equipped with a listed emergency breakaway device designed to retain liquid on both sides of the breakaway point. Such devices shall be installed and maintained in accordance with manufacturer's instructions."

CJ. Section 80.108. Delete Section 80.108 and substitute the following:

"HAZARDOUS AND/OR POISONOUS GASES

Section 80.108(a). Storage of hazardous and/or poisonous gases within buildings shall be in rooms of at least one-hour, fire-resistive construction as specified in the Building Code and having natural or mechanical ventilation adequate to remove leaking gas. Such ventilation shall not discharge to a point where the gases may endanger any person, domestic animal or wildlife.

EXCEPTION: Cylinders containing hazardous and/or poisonous gases may be stored in approved cabinets which comply with the requirements set forth in this Section.

CJ) (b) Outside Storage. 1. General. General storage of hazardous and/or poisonous gases outside of buildings shall comply with the separation, construction and fire safety requirements of the Building Code and this Code.

2. Shutoffs in Piping From Outside Storage. All gaseous supply piping from the outside storage shall be provided with excess flow control in accordance with the requirements of (c) 3. D. of this Section.

A manual emergency shutoff valve located outside the building shall be installed on each hazardous and/or poisonous gas supply pipe from outside storage. The valve shall be identified, readily accessible, and its location clearly visible.

3. Special provisions. Outside storage of hazardous and/or poisonous gas shall be safeguarded from public access. See Section 80.103.

(c) Storage and Dispensing of Hazardous and/or Poisonous Gases. 1. General. The storage and dispensing of hazardous and/or poisonous gases shall be within storage cabinets.

EXCEPTION: Additional cabinets may not be required for equipment which uses hazardous and/or poisonous gases as an integral part of its function and which includes in its design provisions for the containment of hazardous and/or poisonous gas cylinders and which meets the other requirements for cabinets in this Section as required by the Chief.

Incompatible materials shall not be stored within the same cabinet. Inert materials may be intermingled with other materials.

2. Cabinet Construction. Storage cabinets shall be on an approved construction and if metal, shall be of not less than 0.0478-inch (18 gage) steel. Doors to cabinets shall be self-closing and latching. There shall be no openings between a cabinet and an exit corridor.

EXCEPTION: Self-closing doors having a fire protection rating of not less than one hour may be installed between a cabinet and an existing exit corridor, provided the cabinet is fully enclosed with wall protection as required for the exit corridor. Such enclosure shall be internally sprinklered.

CJ) Electrical equipment and devices within cabinets used for the storage of hazardous and/or poisonous gases shall be in accordance with the requirements of the Electrical Code.

3. Special Requirements. A. General. In addition to other requirements of this Section, cabinets used for the containment of hazardous and/or poisonous gases shall comply with this subsection. Storage cabinets containing hazardous and/or poisonous gases shall be internally sprinklered or protected by an approved alternative fire protection system.

EXCEPTION: Sprinklers or an approved alternative fire protection system shall not be required in gas cabinets that are located within an approved hazardous and/or poisonous gas storage room other than those used to contain pyrophoric gases.

Self closing limited-access ports shall be installed on gas cabinets to give access to equipment controls.

B. Gas-Detection Systems. When hazardous and/or poisonous gas is used or dispensed and the physiological warning properties for the gas are at a higher level than the accepted permissible exposure limit for the gas, a continuous gas-monitoring system shall be provided to detect the presence of a short-term hazard condition. When dispensing occurs and flammable gases or vapors may be present in quantities in excess of twenty percent (20%) of the lower explosive limit, a continuous gas-monitoring system shall be provided. Activation of the monitoring system shall automatically shut the valves on all gas lines from the cabinets and initiate an alarm system intended to provide the indication and warning of abnormal conditions and summon appropriate aid.

C. Ventilation. Storage cabinets shall be ventilated. When the cabinet contains poisonous gases, the average velocity of ventilation at the face of access ports shall be not less than 200 feet per minute (fpm) with a minimum of 150 fpm at any point of the access port.

Gas storage cabinets shall be operated at a negative pressure in relation to the surrounding area.

CJ) D. Excess Flow Control. Where hazardous and/or poisonous gas is carried in pressurized piping, a fail-safe system shall shut off flow due to a rupture in the piping. Where the piping originates from within the hazardous and/or poisonous gas storage room, this excess flow shutoff valve shall be located within the hazardous and/or poisonous gas storage room. Where the piping originates from outside the building, the valve shall be located outside the building as close to the bulk source as practical.

E. Piping and Tubing Installation. Piping and tubing shall be installed in accordance with approved standards. Supply piping of hazardous and/or poisonous gas having a health hazard ranking of 3 or 4 (as designated by Uniform Fire Code Standard 79-3) shall have welded connections throughout unless an exhausted enclosure is provided.

EXCEPTION: Material which is incompatible with ferrous piping may be installed in nonmetallic piping with approved connections.

(d) LEGIBLE WARNING SIGNS stating the nature of hazard shall be placed at all entrances to locations where hazardous and/or poisonous gases are stored or used." (Ord. 86-156; Ord. 86-215)

20-2-106: **PENALTIES:**

- A. It is unlawful for any person to violate any of the provisions of this Part 1 including any provisions of the Uniform Fire Code, Uniform Fire Code Appendices and Uniform Fire Code Standards as adopted by this Part.
- B. Every person convicted of a violation of any provision set forth in this Part shall be punished in accordance with Article 2 of Chapter 1 of the Code of the City of Colorado Springs 1980, as amended. (Ord. 86-156)

20-2-107: **SALE OF COPIES:** The City Clerk shall delegate his responsibility to maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price to the Regional Building Department. (Ord. 86-156)

CHAPTER 20 PUBLIC SAFETY

ARTICLE 2 FIRE PREVENTION

PART 2 TRANSPORTATION OF FLAMMABLE LIQUIDS

SECTION:

20-2-201: Definitions
 20-2-202: Requirements for Tank Vehicles
 20-2-203: Delivery Hose Requirements
 20-2-204: Use Regulations
 20-2-205: Unloading and Routing Requirements
 20-2-206: Traffic and Operator Requirements
 20-2-207: Inspection of Vehicles

20-2-201: DEFINITIONS:¹ The following terms, as used in this Part 3, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

RAILROAD TANK CAR: A railroad car, having a tank or tanks mounted thereon and used for the transportation of flammable liquids.

TANK VEHICLE: Tank vehicle includes the following vehicles having tanks or tanks mounted thereon and used for the transportation of flammable liquids:

Semi-Trailers

Trailers

Trucks

And any other vehicle with a tank thereon used for the transportation of flammable liquids. (1980 Code)

20-2-202: REQUIREMENTS FOR TANK VEHICLES:

- A. The loading and unloading of flammable liquids from tank vehicles shall be permitted only by hand or by electrically driven motors and control devices of a Department of Transportation approved explosion-proof type. Loading and unloading by the use of pumps driven by inter-

- A) nal combustion engines is prohibited except by a Department of Transportation approved pumping unit.

- B. All draw-off valves or faucets projecting beyond the frame in the rear of the vehicle shall be adequately protected against collision by steel bumpers or other means of equal protection. Ord. 78-147; 1968 Code § 7-110)

- C. Fire Extinguishers.

1. Each tank vehicle shall be provided with at least one portable fire extinguisher having at least a 40-B, C rating or when more than one is provided, each extinguisher shall have at least a 20-B, C rating. Ratings shall be in accordance with the Standard for Portable Fire Extinguishers, National Fire Protection Association No. 10. Fire extinguishers on tank vehicles shall be maintained in serviceable condition.

2. Whenever a tank vehicle is unloading flammable liquids, at least one approved portable fire extinguisher shall be placed at a location approximately twelve feet (12') away from the fill connection of the underground tank being filled and shall be readily available in case of accident. (Ord. 78-147; 1968 Code § 7-111)

20-2-203: DELIVERY HOSE REQUIREMENTS: The delivery hose, when attached to a tank vehicle shall be considered to be a part of the tank vehicle so that both pieces of apparatus are safely grounded and same shall not exceed twenty feet (20') in length. (Ord. 78-147; 1968 Code § 7-113)

20-2-204: USE REGULATIONS:

- A. The unloading of all tank vehicles and railroad tank cars and all operations in connection therewith shall comply with the existing rules

1. For definitions of general application, see Section 1-1-203 of this Code.

- A) and regulations of the United States Department of Transportation pertaining thereto.
- B. No tank vehicles shall be repaired except when completely empty from flammable liquids and after being thoroughly steamed or washed to remove all explosive vapors, and then tested with an explosive meter for a reading that indicates such repair may be undertaken without a fire hazard. (Ord. 78-147; 1968 Code § 7-112)

20-2-205: UNLOADING AND ROUTING REGULATIONS:

- A. When engaged in unloading operations at retail stations, all portions of any tank vehicle shall be entirely on private property so that no part of said vehicle shall extend over or upon a street or other public way.
- B. All tank vehicles shall follow the primary truck route plan streets as approved from time to time by the City Council; provided, however, that the Chief of the Fire Department may exclude or include such of the primary truck route plan streets for use by said vehicles as he deems will promote safe travel thereon. The Fire Chief may, from time to time, prepare or cause to be prepared a map delineating such streets.¹
- C. In making deliveries of flammable liquids within the City, all tank vehicles shall follow said major streets as defined in Section 20-2-205B above to the point of departure thereon nearest to the premises at which the delivery is to be made. After the unloading and delivery of said liquid, the tank vehicle shall return to the same point of departure on the major street unless the second delivery is to be made at premises which are nearer than said point of departure, in which case the tank vehicle may proceed to such premises and after delivery return to the major street at the nearest point of entrance. (Ord. 78-147; 1968 Code § 7-114)
- D. No tank truck or tank semi-trailer having a total capacity in excess of two thousand two hundred (2,200) gallons, including tolerance of ten percent (10%), shall make more than two (2)

- D) entrances or stops upon a filling station or other premises in completely unloading or delivering a load of flammable liquid. (Ord. 3106; 1968 Code § 7-119)

20-2-206: TRAFFIC AND OPERATOR REGULATIONS:

- A. Every owner of a tank vehicle shall be required to have such vehicle operated by an operator duly licensed in the State of Colorado and said operator shall also be duly trained and competent in the loading and unloading of said vehicles, including the proper and safe operation of the hoses, fittings and other equipment used in said loading and unloading operations.
- B. It shall be unlawful for any tank vehicle when entering or departing filling station premises or other private property, to back into or from a street or other public way. (Ord. 78-147; 1968 Code § 7-115)

20-2-207: INSPECTION OF VEHICLES: It shall be the duty of the owner of any tank vehicle used for the transportation of flammable liquid within the City to have a safety inspection for such vehicle every six (6) months, said inspection to be made during the months of January and July of each year by the State Inspector of Oils of the State of Colorado, or the equivalent state inspector of any other state, and the owner shall file with the Chief of the Fire Department a certificate of such inspection. (Ord. 3106; 1968 Code § 7-120)

¹ See Chapter 22, Article 21 of this Code.

CHAPTER 20 PUBLIC SAFETY

ARTICLE 3 POLICE AND FIRE ALARM SYSTEMS

SECTION:

- 20-3-101: Automatic Dialing and Prerecorded Systems Prohibited
- 20-3-102: Permitted Direct Alarm Systems
- 20-3-103: Installation and Maintenance of Equipment
- 20-3-104: Rules and Regulations
- 20-3-105: Acceptance of Conditions
- 20-3-106: City Under No Obligation
- 20-3-107: Notice of Permit Revocation
- 20-3-108: False Alarm Service Charge

20-3-101: **AUTOMATIC DIALING AND PRERECORDED SYSTEMS PROHIBITED:**

It shall be unlawful for any person to use or cause to be used any telephone device or telephone attachment or mechanical device using telephone lines that automatically selects a public primary telephone trunk line of the City, or its Police or Fire Departments, or the 911 emergency response center, and then reproduces any prerecorded message to report any burglary or other emergency. No installation of radio-activated alarm receivers shall be authorized in either the police or fire alarm centers. (Ord. 79-38; 1968 Code, § 7-251)

20-3-102: **PERMITTED DIRECT ALARM SYSTEMS:**

The City Manager is hereby authorized to grant a revocable permit to any person in the City who has established a central office for the purpose of receiving alarms and transmitting them to the Police or Fire Departments for response. Such a permit shall authorize the installation of either a private line or lines or a regular business line to the Police or Fire Departments for the express purpose of providing direct telephone communication between said person and the Police or Fire Departments for use to report intrusion, holdup, burglary, fire or other emergency.

- A. The permit shall be granted if an application therefor is made to the City Manager, in writing at least thirty (30) days prior to the intended

- A) date of connection to the Police and/or Fire Departments, and the City Manager finds that:

1. The connection of such telephone line will constitute no hindrance to regular City activities;

2. No messages will be telephoned on said line except by the applicant or his agent with access to customer files;

3. The applicant seeking the connection maintains adequate equipment and work force to repair, maintain or otherwise service alarms owned, sold or leased by him;

4. The applicant has furnished the City Manager with a resume of his past experience in operating a central office and a financial statement of his firm certified by a certified public accountant, and based upon such statements it appears that the applicant is reasonably qualified to conduct an alarm business;

5. The applicant has filed a certificate from the Mountain States Inspection Bureau stating that the connections and the central office meet the requirements set forth in NBFU and UL codes. When such certification is received as to fire alarms the same shall be deemed sufficient for police alarms also in the absence of other requirements. Ord. 4311A; 1968 Code, § 7-252)

- B. The permits herein granted are so granted upon the express conditions:

1. That permittees shall always hold the City harmless from and on account of any damages arising out of the activities of any client of the permittee in the exercise of such permits and privileges, including but not limited to damages to the City, its agents, employees, invitees, permittees and licensees, while in or on the building in which the alarm cabinet or telephone terminal is located, arising out of any defects in the alarm cabinet or telephone

CHAPTER 20 PUBLIC SAFETY

ARTICLE 4 HAZARDOUS MATERIAL INCIDENTS

SECTION:

- 20-4-101: Purpose
- 20-4-102: Definitions
- 20-4-103: Jurisdiction of Emergency Response Authority
- 20-4-104: Duties and Authority of the Emergency Response Authority
- 20-4-105: Right of Entry
- 20-4-106: Responsibilities of City Departments
- 20-4-107: Hazardous Material Incidents on Private Property
- 20-4-108: Responsibility for Residue Cleanup and Disposal
- 20-4-109: Reimbursement of Costs and Expenses
- 20-4-110: Violations

20-4-101: PURPOSE: The purpose of this Article is to designate an emergency response authority for hazardous material incidents occurring within the corporate limits of the City, and within all areas outside the corporate limits of the City the use of which the City has jurisdiction and authority to regulate, as required by C.R.S. 1973 § 29-22-102(3), as amended, and to establish the duties and authority of the emergency response authority. This Article shall also establish the responsibilities of any person who owns or has control of a hazardous material which is involved in a hazardous material incident, and provide for reimbursement of costs to the City incidental to hazardous material incidents. (Ord. 80-430)

20-4-102: DEFINITIONS: The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise or unless such meaning is excluded by express provision.

HAZARDOUS MATERIAL: Any substance or material designated as a hazardous material by the United States Department of Transportation according to 49 CFR Part 172, as amended; or, any waste material which constitutes a hazardous waste according to 40 CFR Part 261, as amended; or, any other substance or material including but not limited

to petroleum products which, in the judgment of the emergency response authority, poses an imminent danger to the public health and safety when involved in a hazardous material incident.

HAZARDOUS MATERIAL INCIDENT: Any emergency circumstance involving the sudden discharge or imminent discharge of hazardous material which, in the judgment of the emergency response authority, threatens immediate and irreparable harm to the environment or the health and safety of any person other than persons exposed to the risks associated with hazardous materials in the normal course of their employment. "Hazardous material incident" does not include any discharge of a hazardous material authorized pursuant to any Federal, State or local law or regulation.

PRIVATE PROPERTY: Any property under the control, management or operation of any person other than a governmental entity.

EMERGENCY RESPONSE AUTHORITY: The Chief of the Fire Department of the City or his designee(s).

EMERGENCY RESPONSE TO A HAZARDOUS MATERIAL INCIDENT: Taking the initial emergency action necessary to minimize the effects of a hazardous material incident and exercising continuing supervisory authority over all further efforts to eliminate the threat of immediate and irreparable harm to the environment or the public health and safety.

RESIDUE OF THE HAZARDOUS MATERIAL INCIDENT: The hazardous material itself and the soil, pavement, stone, water, debris or any other matter which is contaminated by such hazardous material. (Ord. 80-430)

20-4-103: JURISDICTION OF EMERGENCY RESPONSE AUTHORITY: The emergency response authority shall have jurisdiction for hazardous material incidents occurring within the corporate limits of the City, and within all areas outside the corporate limits of the City over which the City has jurisdiction and authority to regulate, and on any private property for which the owner or

operator thereof has an arrangement with the City for fire protection service, except that such arrangement shall not include a mutual support agreement. (Ord. 80-430)

20-4-104: DUTIES AND AUTHORITY OF THE EMERGENCY RESPONSE

AUTHORITY: The emergency response authority shall have the following duties and authority:

- A. Provide twenty four (24) hour response capability to reported or suspected hazardous waste incidents.
- B. Take initial emergency action necessary to minimize the effects of a hazardous material incident and exercise continuing supervisory authority over all further efforts to eliminate the threat of immediate and irreparable harm to the environment or the public health and safety.
- C. Request assistance of personnel and equipment at the scene and immediate vicinity of a hazardous material incident from any City department including, but not limited to, the Fire Department, the Police Department, the Department of Public Works, the Department of Public Utilities and Office of Safety and Claims, and generally direct, supervise and coordinate the activities of such persons and the use of such equipment.
- D. Request assistance from the nearest available fire department or other public agency possessing such equipment, personnel or expertise which, in the judgment of the emergency response authority, may be necessary to handle a particular hazardous material incident when such equipment, personnel or expertise is not reasonably available on a timely basis from the various City departments.
- E. Contract, as an emergency measure without the necessity of bids, for services and material from any person for the purpose of minimizing the effects of a hazardous material incident and for eliminating the threat of immediate and irreparable harm to the environment or to public health and safety if such services or material is not reasonably available on a timely basis from the various City departments or other fire departments or public agencies.

- F. Notify the Disaster Emergency Service Agency, the United States Coast Guard, the United States Environmental Protection Agency, the Colorado State Department of Health, and any other Federal or State agency of hazardous material incidents as required by any Federal or State law or regulation. The emergency response authority may request the Disaster Emergency Service Agency to assist in making the required notifications and for any other assistance which is deemed appropriate. (Ord. 80-430)

20-4-105: RIGHT OF ENTRY: Whenever the emergency response authority has reasonable cause to believe that a discharge of hazardous material has occurred or that a discharge of a hazardous material is imminent, which discharge or imminent discharge threatens immediate and irreparable harm to the environment or the health and safety of any person other than persons exposed to the risks associated with hazardous materials in the normal course of their employment, and which discharge or imminent discharge is not authorized pursuant to any Federal, State or local law or regulation, the emergency response authority may enter any private property in the interest of public safety at all reasonable times to inspect the same or to perform any duty imposed by this Article. If such private property is occupied, the emergency response authority shall first identify himself by name and position and demand entry; and, if such private property is unoccupied, the emergency response authority shall first make a reasonable effort to locate the owner or other person having charge or control of such private property and demand entry. If entry is refused, the emergency response authority may apply for a search warrant or search warrant for inspection pursuant to the Colorado Municipal Court Rules of Procedure, or as otherwise provided by law. This section shall not be construed to require the issuance of a warrant in any case where warrants are not required by law. (Ord. 80-430)

20-4-106: RESPONSIBILITIES OF CITY DEPARTMENTS:

Upon request of the emergency response authority, all City departments shall provide any personnel, equipment and expertise as may be reasonably available, to assist at the scene or immediate vicinity of a hazardous material incident taking into account the serious and immediate danger posed by hazardous material incidents. All

personnel and equipment from each department at a hazardous material incident scene or vicinity shall be under the direct supervision of the senior person from that department or as otherwise provided by departmental policy, except that the emergency response authority shall provide general supervisory control and authority at a hazardous material incident scene or vicinity and all City departments and personnel shall cooperate with the emergency response authority accordingly. (Ord. 80-430)

20-4-107: HAZARDOUS MATERIAL INCIDENTS ON PRIVATE PROPERTY:

If a hazardous material incident occurs on private property within the corporate limits of the City or on private property for which the owner or operator thereof has an agreement with the City for fire protection service, the owner or operator thereof may undertake the emergency response to such hazardous material incident and shall immediately notify and coordinate such response with the emergency response authority. If the owner or operator does not undertake such emergency response, or if in the judgment of the emergency response authority there exists an imminent danger to the public health and safety beyond such private property and the emergency response by the owner or operator thereof is inadequate or insufficient to alleviate such imminent danger, the emergency response authority shall be responsible for the emergency response to such hazardous material incident as provided in this Article. (Ord. 80-430)

20-4-108: RESPONSIBILITY FOR RESIDUE CLEANUP AND DISPOSAL:

The owner of a hazardous material and the operator of any vehicle or other conveyance by which a hazardous material is moved or transported, in the case where a hazardous material incident occurs during movement or transport, shall be jointly and severally responsible for properly cleaning up, transporting and disposing of the residue of the hazardous material incident. Proper cleanup, transport and disposal shall mean actions in compliance with all Federal and State laws and regulations pertaining to the particular hazardous material or residue thereof, as the case may be. All such owners and operators shall cooperate with the emergency response authority and shall provide all reasonably available means, personnel and equipment to effect the proper cleanup, transport and disposal of the residue of the hazardous material incident. (Ord. 80-430)

20-4-109: REIMBURSEMENT OF COSTS AND EXPENSES:

Each City department shall develop criteria to govern those costs and expenses incurred by such department as a result of assistance at hazardous material incidents which shall be reimbursable. Each City department shall submit an itemized account of all reimbursable costs and expenses incurred as a result of such department's assistance at a hazardous material incident to the Office of Safety, Claims and Insurance within thirty (30) days following such incident. Thereafter, the Office of Safety, Claims and Insurance shall bill the owner of the hazardous material involved in the hazardous material incident, or other person proximately causing the hazardous material incident, for the total costs and expenses incurred by all the City departments as a result thereof, which bill shall be due and payable within thirty (30) days after mailing. Such owner or other person proximately causing a hazardous material incident shall be jointly and severally liable for reimbursement of all City costs and expenses incurred as a result of assistance or emergency response to a hazardous material incident. Upon the failure or refusal of any person to reimburse the City as provided herein, the Office of Safety, Claims and Insurance shall refer the matter to the office of the City Attorney for collection or other disposition as deemed appropriate. (Ord. 80-430)

20-4-110: VIOLATIONS:

- A. The driver of any vehicle involved in an accident resulting in a discharge of any hazardous material upon any public or private property shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible, in which latter case he shall immediately return to the scene of the accident, and in any event he shall remain at the scene of the accident until he has fulfilled the requirements of Section 20-4-110B.
- B. The driver of any vehicle involved in an accident resulting in a discharge of any hazardous material shall immediately notify the emergency response authority or a police officer of the discharge and shall give his name, address and the registration number of the vehicle he is driving to the emergency response authority or police officer. The driver shall also give the emergency response authority the name, address and telephone number of the owner of the hazardous material, if known to him.

- C. It shall be unlawful for the driver of any vehicle involved in the discharge of any hazardous material to leave the scene of a hazardous material incident until such material is cleaned up pursuant to the requirements of Section 20-4-108 of this Article, unless authorized to leave prior thereto by the emergency response authority.
- D. It shall be unlawful for any person to intentionally, knowingly or recklessly discharge any hazardous material into or upon any public or private property, unless such discharge is authorized pursuant to Federal, State or local law or regulation.
- E. It shall be unlawful for any person to intentionally, knowingly or recklessly discharge any hazardous material into the wastewater treatment works of the City, including any collection line thereto, unless authorized by the Manager of the Wastewater Division of the Department of Public Utilities of the City. (Ord. 80-430)

CHAPTER 21
PUBLIC OFFENSES

ARTICLE 1	ADMINISTRATION AND ENFORCEMENT
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CHAPTER 21 PUBLIC OFFENSES

ARTICLE 1 ADMINISTRATION AND ENFORCEMENT

SECTION:

- 21-1-101: Title
- 21-1-102: Application of Chapter
- 21-1-103: Definitions
- 21-1-104: Corporations and Criminal Liability
- 21-1-105: Defenses of Intoxication
- 21-1-106: Accessory
- 21-1-107: Conspiracy
- 21-1-108: Criminal Attempt
- 21-1-109: Custody of Property by Chief of Police;
Disposal
- 21-1-110: Penalties

21-1-101: **TITLE:** This Chapter shall be known and may be cited as the Public Offenses Code of the City (hereinafter this Chapter). (Ord. 4517; 1968 Code § 8-1)

21-1-102: **APPLICATION OF CHAPTER:** Except where specifically limited, this Chapter shall apply to all areas within the corporate limits of the City and to all other areas, the use of which the City has jurisdiction and authority to regulate pursuant to ordinance, statute or agreement. (Ord. 4517; 1968 Code § 8-2)

21-1-103: **DEFINITIONS:**¹ The following terms as used in this Chapter shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

ACT: Includes a bodily movement, words, or possession of property.

AID or ASSIST: Includes knowingly to make possible or available, or to further the activity aided or assisted.

ASSAULT: An unlawful attempt coupled with a present ability to commit a bodily injury on the person of another.

BENEFIT: Any gain or advantage to the beneficiary including any gain or advantage to another person pursuant to the desire or consent of the beneficiary.

BODILY INJURY: Physical pain, illness or any impairment of physical or mental condition, and unlawful touching.

CARELESSLY: A person acts carelessly with respect to a result or to a circumstance which is defined by an ordinance as an offense when he fails to perceive a substantial or unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that failure to perceive it constitutes deviation from the standard of care that a reasonable and prudent person, having regard to the actual and potential hazards and conditions then existing, would observe in that situation.

CONDUCT: An act or omission and its accompanying state of mind or where relevant, a series of acts or omissions.

DEFACE: To alter the appearance of something by removing, distorting, adding to or covering all or a part of the thing.

DWELLING: A building which is used, intended to be used, or usually used by a person for habitation.

INTENTIONALLY: A person acts intentionally with respect to a result or to conduct described by an ordinance defining a violation, when his conscious object is to cause that result or to engage in that conduct or when his actions are such as to give rise to a substantial certainty that such results will be produced.

KNOWINGLY: A person acts knowingly with respect to conduct or to a circumstance described by an ordinance defining a violation when he is aware, or reasonably should be aware, that his conduct is of that nature or that the circumstance exists.

OMISSION: A failure to perform an act as to which a duty of performance is imposed by law.

1. For definitions of general application, see Section 1-1-203 of this Code.

ON: When used in conjunction with public places such as streets, includes contact with, or within or upon, a vehicle or other thing or structure which is in contact with the public place or street.

PEACE OFFICER: Any sheriff, deputy sheriff, police officer or other law enforcing authority or officer except privately-employed security personnel.

PLACE WITHIN PUBLIC VIEW: Any place where conduct by a person reasonably may be expected to be open to view by members of the public.

PREMISES: Includes vehicles or boats.

PUBLIC PLACE: A place to which the public or a substantial number of the public has access, and includes highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities.

PUBLIC SERVANT: Any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server, or otherwise in performing a governmental function, but the term does not include witnesses.

RECKLESSLY: A person acts recklessly with respect to a result or to a circumstance described by an ordinance defining a violation when he is aware or reasonably should be aware of and consciously disregards a substantial or unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a wilful or wanton deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of self-induced intoxication as defined elsewhere herein acts recklessly with respect thereto. (Ord. 4517; 1968 Code § 8-4)

21-1-104: CORPORATIONS AND CRIMINAL LIABILITY:

A. A corporation is guilty of an offense if:

1. The conduct constituting the offense consists of an omission to discharge a specific

A,1) duty of affirmative performance imposed on corporations by law; or

2. The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment or in behalf of the corporation.

3. As used in this Chapter, "agent" means any director, officer or employee of a corporation, or any other person who is authorized to act in behalf of the corporation, and "high managerial agent" means an officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

B. A person is liable criminally for conduct constituting a violation which he performs or causes to occur in the name of or on behalf of a corporation to the same extent as if such conduct were performed or caused by him in his own name or behalf. (Ord. 4517; 1968 Code § 8-5)

21-1-105: DEFENSES OF INTOXICATION:

A. Intoxication of the accused is not a defense to a criminal charge, except as provided in subsection B hereof, but in any prosecution for a violation, evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negate the existence of a specific intent if such intent is an element of the crime charged.

B. A person is not responsible criminally for his conduct if, by reason of intoxication that is not self-induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.

C. "Intoxication" as used in this Section means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

D. "Self-induced intoxication" means intoxication caused by substances which the defendant

- D) knows or ought to know have the tendency to cause intoxication and which he knowingly introduced or allowed to be introduced into his body, unless they were introduced pursuant to medical advice or under circumstances that would afford a defense to a charge of crime.
- E. The issue of intoxication is an affirmative defense. (Ord. 4517; 1968 Code § 8-6)

21-1-106: **ACCESSORY:** It shall be unlawful for any person to be an accessory.

- A. A person is an accessory if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for a violation of this Code, he renders assistance to such person.
- B. "Render assistance" means to:
 - 1. Harbor or conceal the other; or
 - 2. Warn such person of impending discovery or apprehension, except that this does not apply to a warning given in an effort to bring such person into compliance with the law; or
 - 3. Provide such person with money, transportation, weapon, disguise or other things to be used in avoiding discovery or apprehension; or
 - 4. Conceal, destroy or alter any physical evidence. (Ord. 4517; 1968 Code § 8-24)

21-1-107: **CONSPIRACY:** It shall be unlawful for any person to conspire with another to commit a violation of this Code.

- A. A person conspires to commit a violation of this Code, if, with the intent to promote or facilitate its commission, he agrees with another person or persons that they, or one or more of them will engage in conduct which constitutes such a violation or an attempt to commit such violation, or he agrees to aid such other person or persons in the planning or commission of

- A) such a violation or of an attempt to commit such a violation.

- B. 1. No person may be convicted of conspiracy, unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

2. If a person knows that one with whom he conspires to commit a violation has conspired with another person or persons to commit the same violation, he is guilty of conspiring to commit such violation with such other person or persons, whether or not he knows their identity.

3. If a person conspires to commit a number of violations, he is guilty of only one conspiracy so long as such multiple violations are part of a single criminal episode. (Ord. 4517; 1968 Code § 8-25)

21-1-108: **CRIMINAL ATTEMPT:** It shall be unlawful to commit a criminal attempt as set out hereafter:

- A. A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he intentionally engages in conduct constituting a substantial step toward commission of a violation of this Code. A substantial step is any conduct, whether act, omission or possession which strongly corroborates the firmness of the actor's intent to complete the commission of the violation. Factual or legal impossibility of committing the violation is not a defense if the violation could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the violation attempted was actually perpetrated by the accused.
- B. A person who engages in conduct intending to aid another to commit a violation commits criminal attempt if the conduct would establish his complicity were the violation committed by the other person, even if the other is not guilty of committing or attempting the violation. For purposes of this Section, complicity means that

- B) a person legally is accountable as principal for the behavior of another constituting a violation if, with the intent to promote or facilitate the commission of the violation, he aids, abets or advises such other person in planning or committing the violation.
- C. It is an affirmative defense to a charge under this Section that the defendant abandoned his effort to commit the violation or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his criminal intent. (Ord. 4517; 1968 Code § 8-26)

21-1-109: CUSTODY OF PROPERTY BY CHIEF OF POLICE; DISPOSAL:

- A. All firearms, military equipment, books, records, personal effects taken from a prisoner under arrest, and all confiscated articles shall be in the custody of the Chief of Police. (Ord. 856; Ord. 1104; 1968 Code § 7-8)
- B. The Chief of Police shall keep a record of all property which may be seized or otherwise taken possession of by the Police Department; and if such property so seized or taken possession of shall not be claimed by the rightful owner thereof and possession surrendered to such owner within three (3) months from the date of such seizure or taking possession of by the Police Department, he shall publish or cause to be published in the official newspaper of the City¹ a description of such property and shall give notice that if such property be not claimed by the rightful owner or owners thereof within ten (10) days from the date of said publication such property will be sold at public auction at such place and in such manner as the Chief of Police may prescribe. If within ten (10) days from the date of such publication no claim for such property described in such notice shall have been made by the rightful owner thereof, he shall proceed to sell such property at public auction. Alternatively, the Chief of Police may, with the approval of the City Manager, if no claim for the property described in the notice is made, determine that the property be put to City use, in which case said property shall be entered into the City's inventory. The Chief of Police shall pay into the police pension fund the estimated value of the property put to City

- B) use. The proceeds of any sale or sales so made after deducting the cost of storage, advertising and selling, etc. shall be paid into the Police Pension Fund.
- C. Provided, that if any property so seized or taken possession of by the Police Department shall be of a perishable nature as to make it inadvisable to retain possession thereof for the length of time hereinabove specified he may cause such property to be forthwith advertised in the official newspaper of the City. Such property may be sold at public auction at any time after three (3) days have elapsed from the seizure or taking possession thereof. Nothing in this Section contained shall refer to any impounded animal.² (Ord. 1104; Ord. 76-17; Ord. 84-84; 1968 Code § 7-18)

21-1-110: PENALTIES: Whenever in this Chapter any act is prohibited or is made or declared to be unlawful, an offense, violation or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense, violation, or misdemeanor, any person who shall be convicted of the violation of any such provisions of this Chapter shall be punished as provided in Section 1-2-101 of this Code. (1968 Code, § 8-7)

1. See Section 1-1-601 of this Code.

2. See Chapter 11, Article 4 of this Code.

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 2 OFFENSES AFFECTING PUBLIC SAFETY

SECTION:

21-2-101: Fighting
 21-2-102: Loitering
 21-2-103: Failure to Desist or Disperse
 21-2-104: Disturb Lawful Assemblies
 21-2-105: Unlawful Use of Telephone
 21-2-106: Leaving Cellar Doors and Other Openings
 Uncovered or Unsafe
 21-2-107: Storage of Unsafe Icebox and
 Similar Items
 21-2-108: Harassment

21-2-101: **FIGHTING:**

- A. It shall be unlawful for any person to intentionally, knowingly or recklessly fight or brawl with another.
- B. It shall be unlawful for any person to permit any of the above acts in any house or upon any premises under his management or control when it is within his power to prevent such action.
- C. For purposes of this Section, it is not a defense that a person charged with a violation of this Section was not the instigator or the initiator of the fight. (Ord. 86-35)

21-2-102: **LOITERING:**

- A. Definition. The word "loiter" shall mean to be dilatory, to stand idly around, to linger, delay, wander about, to remain, abide or tarry in a public place.
- B. Acts Prohibited:
 - 1. It shall be unlawful for any person to loiter so as to warrant alarm for the safety of persons or property in the vicinity.
 - 2. Loitering on School Grounds: It shall be unlawful to loiter on school grounds. A person loiters on school grounds if:

B,2) a. At a time when the school is in session or when persons under the age of eighteen (18) are otherwise present in the school building or on the grounds;

b. Having been asked to leave by a school administrator or his representative or a peace officer;

c. He loiters in the school building, on the school grounds, or within one hundred feet (100') of the school grounds;

d. Without having any reason related to custody of or responsibility for a pupil attending that school, or any other specific, legitimate reason for his presence;

e. Under circumstances in which his continued presence interferes with or disrupts the school program or interferes with or endangers school children or personnel present in the school building or on its grounds.

C. Reasonable Grounds, Duty of Officer. For purposes of a prosecution under subsection B1, the following applies:

1. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that such person is loitering is the fact that such person;

a. Takes flight upon appearance of a peace officer; or

b. Refuses to identify himself; or

c. Manifestly endeavors to conceal himself or any object; or

d. Systematically checks the means of access to buildings or vehicles; or

e. Maintains a continuous presence in close proximity to a place when his activity manifests a high probability of unlawful activity.

2. Unless flight by the person or other circum-

C,2) stances make it impractical, a peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm otherwise warranted, or explain any circumstances giving rise to reasonable grounds for belief that such person is loitering by requesting him to:

- a. Identify himself; and
- b. Explain his presence and conduct.

D. Standard for Conviction. No person shall be convicted of an offense under subsection B1, if the peace officer did not comply with subsections C2a and b of this Section, or if at trial, that the explanation of presence and conduct given by the defendant was true and, if believed by the peace officer at the time, would have dispelled any alarm or would have disclosed a lawful purpose. (Ord. 4517; Ord. 84-180; Ord. 86-36; 1968 Code § 8-9)

21-2-103: FAILURE TO DESIST OR DISPERSE: It shall be unlawful for any person to intentionally, knowingly or recklessly fail or refuse to obey an order which:

- A. Is made by a peace officer while in the discharge or apparent discharge of his duties; and
- B. Directs that person or a group of which that person is a member, to desist from conduct or disperse from an area; and
- C. Is given at a time when that person individually or with others is participating in a course of conduct or is present in an area where such conduct or presence creates, maintains or aggravates an immediate substantial danger of damage or injury to persons or property or substantially obstructs the performance of any governmental function. (Ord. 74-118; 1968 Code § 8-10; Ord. 80-299)

21-2-104: DISTURB LAWFUL ASSEMBLIES:

- A. It shall be unlawful for any person, by his conduct in, on or near the premises, property or facilities of the City or any public place, institution, office or buildings or any school, congregation or assembly meeting for religious worship or any other lawful meeting or assembly to intentionally, knowingly or recklessly:

- A) 1. Obstruct a street, highway, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

2. Disobey a reasonable request or order to move issued by a person he knows to be a peace officer, a fireman, or a person with authority to control the use of the premises, to prevent obstruction of a highway, passageway or of the premises or facilities, or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

3. Substantially to disrupt, obstruct or interfere with any lawful meeting, procession or gathering in or on such premises by intentional physical action, verbal utterance or any other means.

4. Deny any public servant, official, employee, invitee or student:

- a. Lawful freedom of movement on the premises;
- b. lawful use of the property, premises or facilities;
- c. The right of lawful ingress and egress to such property.

5. Impede any public servant, official, employee, invitee or student in the lawful performance of his duties or activities through the use of restraint, coercion, or intimidation or when force and violence are present or threatened.

6. Fail or refuse to leave such premises, property or facilities or the immediate vicinity thereof, upon being reasonably requested to do so by a peace officer, chief administrative officer, or his designee, dean of an educational institution, or other individual or public servant with authority to control the use of the premises if such person is committing, threatens to commit, or incites others to commit, any act which would obstruct, disrupt, restrict or impede the lawful missions, processes, procedures or functions in or on such premises, property or facilities.

- B. For the purposes of this Section, "obstruct"

- B) means to render impassable or to render passage unreasonably inconvenient or hazardous.
- C. Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances. (Ord. 4517; 1968 Code §8-12)

21-2-105: UNLAWFUL USE OF TELEPHONE:

- A. It shall be unlawful for any person, by means or use of a telephone, to intentionally, knowingly or recklessly disturb or tend to disturb the peace, quiet or right of privacy of any person or family, or harass any person or family by:
 - 1. Making a telephone call or causing the telephone to ring repeatedly whether or not a conversation ensues, with no purpose of legitimate conversation; or
 - 2. Making a single or repeated communications at inconvenient hours or in offensively coarse, obscene or profane language; or
 - 3. Attempting to extort money or other things of value; or
 - 4. Threatening any physical harm or violence.
- B. As used in Section A2 above, unless the context otherwise requires, "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.
- C. Any act prohibited by subsection A above may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Ord. 86-37)

21-2-106: LEAVING CELLAR DOORS AND OTHER OPENINGS UNCOVERED OR

UNSAFE: It shall be unlawful for any person to leave open, uncovered, unguarded or in unsafe condition, any cellar door, hatchway, pit, vault or excavation upon any sidewalk, street, alley or public place or so near thereto as to constitute a hazard. (Ord. 4517; 1968 Code § 8-53)

21-2-107: STORAGE OF UNSAFE ICEBOX AND SIMILAR ITEMS:

- A. It shall be unlawful for any person to store, maintain, abandon, discard or place any icebox, refrigerator or freezer which is not being used for refrigeration purposes in any public or private place accessible to children without first doing one or more of the following to any such icebox, refrigerator or freezer:
 - 1. Removing the door or doors; or
 - 2. Removing the latches and affixing a block or wedge or other device to the inner door surface in such a manner that the door or doors cannot shut to form a tight seal; or
 - 3. Padlocking the door or doors shut; or
 - 4. Securing the door or doors shut with metal strapping.
- B. It shall be unlawful for any person to abandon or discard in any public or private place accessible to children, or for the owner, lessee or manager of any property to knowingly permit to remain abandoned or discarded in any place under his control which is accessible to children, any chest, closet, piece of furniture or other article having a compartment of a capacity of one and one-half cubic feet or more and having a door or lid which, when closed, cannot be opened easily from the inside. (Ord. 77-172; 1968 Code § 8-54)

21-2-108: HARASSMENT: It shall be unlawful for any person to commit harassment. A person commits harassment if, with intent to harass, annoy or alarm another person, he:

- 1. Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact; or
- 2. Follows a person in or about a public place; or
- 3. Repeatedly insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response. (Ord. 86-38)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 3 OFFENSES AGAINST PUBLIC OFFICIALS AND JUSTICE

SECTION:

21-3-101: Resisting, Interference With Public
Official

21-3-102: Duty to Aid Police Officers

21-3-103: Impersonating an Officer

21-3-104: False Information

21-3-101: **RESISTING, INTERFERENCE WITH PUBLIC OFFICIAL:**

A. Resisting, Assaulting an Officer.

1. It shall be unlawful for any person to knowingly, intentionally or recklessly resist any peace officer, any member of the Police Department, or any person duly empowered with police authority, while such official is in the discharge or apparent discharge of his duty.

2. It shall be unlawful for any person to knowingly, intentionally or recklessly assault in any manner any peace officer, any member of the Police Department, or any person duly empowered with police authority, while such official is in the discharge or apparent discharge of his duty. For purposes of this Section, an assault is an unlawful attempt coupled with a present ability to commit a bodily injury on the person of another. (Ord. 4517; Ord. 84-45; 1968 Code § 8-19)

B. Interference With Public Officials.

1. It shall be unlawful for any person to knowingly, intentionally or recklessly interfere with or hinder any peace officer, member of the Police Department, or a person duly empowered with police authority, while such official is in the discharge or apparent discharge of his duty.

2. It shall be unlawful for any person to knowingly, intentionally or recklessly offer or endeavor to assist any person in the custody of a peace officer, member of the Police Department, or a person duly empowered with

B2) police authority to escape or to attempt to escape from such custody.

3. It shall be unlawful for any person to knowingly, intentionally or recklessly rescue or to attempt to rescue any person from the custody of a peace officer, a member of the Police Department, or a person duly empowered with police authority. (Ord. 4517; Ord. 84-45; 1968 Code § 8-20)

C. Defense to Prosecution. In a prosecution under subsections A and B hereof, it is no defense that the peace officer was attempting to make an arrest which in fact was unlawful, if he was acting under color of his official authority, and in attempting to make the arrest he was not resorting to unreasonable or excessive force giving rise to the right of self defense. A peace officer acts "under color of his official authority" when, in the regular course of assigned duties, he is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him.

D. Definition of Peace Officer. The term "peace officer", as used in this Section, means a police officer in uniform, or if out of uniform, one who properly has identified himself to the person whose arrest is attempted. When reasonable under the circumstances, the "peace officer" shall attempt to apprise any third person of his identity. (Ord. 4517; 1968 Code § 8-21)

21-3-102: **DUTY TO AID POLICE OFFICERS:** It shall be unlawful for any person eighteen (18) years of age or older when called upon by any peace officer or member of the Police Department, unreasonably to fail or refuse to promptly aid and assist any peace officer or member of the Police Department while such official is in the discharge of his duty. (Ord. 4517; 1968 Code § 8-22)

21-3-103: **IMPERSONATING AN OFFICER:**

A. It shall be unlawful for any person other than an official peace officer of the City to wear the uniform, apparel or any other insignia of office

- A) like or similar to, or a colorable imitation of that adopted and worn by the official peace officer, or to use any kind of police whistle like or similar to that adopted by the Police Department. (Ord. 4517; 1968 Code §§ 7-23, 8-23)
- B. It shall be unlawful for any person to counterfeit, imitate, or colorably imitate, or cause to be counterfeited, imitated or colorably imitated, the uniform, apparel or insignia of office used by the Police Department of the City.
- C. It shall be unlawful for any person, without due authority, to exercise or attempt to exercise the authority of any peace officer, sheriff, deputy sheriff, marshal, public officer or investigator, inspector, deputy or clerk in any City department, or any other law enforcement officer for any purpose or for any person to falsely assume, pretend to be or hold himself out to be such officer for any purpose. (Ord. 4517; 1968 Code § 8-23)
- D. It shall be unlawful for any person not a member of the Fire Department to personate a fireman or officer of such Department. (Ord. 1861; 1968 Code § 7-59)

21-3-104: FALSE INFORMATION:

- A. It shall be unlawful for any person to intentionally, knowingly or recklessly give false or misleading information to any peace officer or other employee of the City who is acting in his official capacity and within the scope of his employment.
- B. It shall be unlawful for any person to intentionally, recklessly, knowingly or carelessly make, turn in or give a false alarm or false information concerning fire, the need for police or ambulance, or of injury or disaster which causes aid or other rescue efforts to be needlessly launched. (Ord. 4517; 1968 Code § 8-27)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 4 OFFENSES AGAINST MORALS AND DECENCY¹

SECTION:

- 21-4-101: Adult Business or Uses
 21-4-102: Prostitution
 21-4-103: Public Indecency

21-4-101: **ADULT BUSINESS OR USES:** For the purpose of this Section, "adult business or use" is as defined in Section 14-11-102 of this Code.

- A. **500 Foot Restriction.** It shall be unlawful to operate or maintain any adult use intended to provide adult amusement or entertainment on payment of a fee or admission charge in a residential district, or within five hundred feet (500') of a residential district, a church, or an educational institution, as defined in Section 14-1-109 of this Code, whether within or without the City.
- B. **1,000 Foot Restriction.** It shall be unlawful to operate or maintain any adult use intended to provide adult amusement or entertainment on the payment of a fee or admission charge within one thousand feet (1,000') of any other adult use. (Ord. 77-11; 1968 Code § 8-29.1)

21-4-102: **PROSTITUTION:**

- A. **Prostitution Unlawful.** It shall be unlawful for any person to engage in prostitution.
- B. **Soliciting.** It shall be unlawful for any person to solicit for prostitution. A person solicits for prostitution if he:
1. Asks, proposes or otherwise seeks to engage another for the purpose of prostitution; or
 2. Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
 3. Directs another to a place knowing such direction is for the purpose of prostitution.

C. **Pandering.** It shall be unlawful for any person to pander. A person panders when, in exchange for money or other thing of value, he knowingly arranges or offers to arrange a situation in which a person may engage in prostitution.

D. **Keeping a Place of Prostitution.** It shall be unlawful for any person to keep a place of prostitution. Any person who has control or exercises control over the use of any premises which offers seclusion or shelter for the practice of prostitution keeps a place of prostitution if he performs any one or more of the following:

1. Knowingly grants or permits the use of such place for the purpose of prostitution; or
2. Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that such place is being used for the purposes of prostitution.

E. **Patronizing a Prostitute.** It shall be unlawful for any person to patronize a prostitute. Any person who performs any one or more of the following acts with a person not his spouse patronizes a prostitute:

1. Engages in sexual conduct or activity with a prostitute; or
2. Enters or remains in a place of prostitution with intent to engage in sexual conduct or activity with a prostitute.

F. **Loitering for the Purpose of Prostitution.** It shall be unlawful for any person to loiter for the purpose of prostitution.

1. A person loiters for the purpose of prostitution if he loiters in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to engage in prostitution. Among the circumstances which may be considered in determining whether the purpose of prostitution is manifested are the following:

¹ Article 7 of Title 18 of the Colorado Revised Statutes 1973 controls offenses relating to morals.

- F,1) a. Such person is a known prostitute or panderer or, if such person is not a known prostitute or panderer, such person maintains a presence in an area which, within the knowledge of the arresting officer, is frequented by known prostitutes or panderers; and,
b. Such person either:
- (1) Repeatedly beckons to, stops or attempts to stop passersby, or engages or attempts to engage passersby in conversation; or
 - (2) Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other gesture or action.
2. Any person suspected of loitering for the purpose of prostitution shall be afforded an opportunity to explain his presence and conduct prior to his arrest.
3. No person shall be convicted of loitering for the purpose of prostitution if it appears at trial that such person was not afforded an opportunity to explain his presence and conduct prior to arrest or if it appears at trial that the explanation given by such person was true and disclosed a lawful purpose.
- G. Definitions. For the purposes of this Section, the following definitions shall apply:
1. PROSTITUTION means engaging, offering to engage or agreeing to engage in sexual conduct or activity with any person except one's spouse where one or more of the parties is to receive money or any other thing of value in exchange for performing such sexual conduct or activity.
 2. PROSTITUTE means any person who engages in prostitution.
 3. SEXUAL CONDUCT OR ACTIVITY means any act involving contact between the genitals of one person and the mouth, hand, anus or genitals of another person, including genital intercourse, fellatio, cunnilingus, masturbation or anal intercourse.
 4. LOITER means to be dilatory, to stand idly around, to linger, delay, remain, abide, tarry or wander about in a public place.

- G) 5. KNOWN PROSTITUTE OR PANDERER means a person who, within one year prior to the date of arrest for violation of subsection F hereof, has been convicted of prostitution, soliciting, pandering or loitering for the purpose of prostitution, and such conviction is within the knowledge or information of the arresting officer. (Ord. 4517; Ord. 81-62; Ord. 82-120; 1968 Code § 8-30)

21-4-103: **PUBLIC INDECENCY:** It shall be unlawful for any person to knowingly perform any of the following acts in a public place or a place within public view:

- A. An act involving sexual conduct or activity. For the purposes of this Section, the term "sexual conduct or activity" shall mean any act involving contact between the genitals of one person and the mouth, hand, anus or genitals of either that person or another person, including genital intercourse, fellatio, cunnilingus, masturbation or anal intercourse.
- B. A Lewd Act. For the purposes of this Section, any of the following shall constitute a lewd act:
 1. Exposure of the breasts of the female or the pubic hair, anus, vulva, genitals or buttocks of either sex, done with intent to arouse or to satisfy the sexual desire of either the person committing the act or any other person.
 2. Exposure of the breasts of the female or the pubic hair, anus, vulva, genitals or buttocks of either sex under circumstances in which such conduct is reasonably likely to cause affront or alarm to another person.
 3. Caressing or fondling of the breasts of the female or the pubic hair, anus, vulva, genitals or buttocks of either sex, either on the person of that person performing the act or on the person of another, whether or not the person being caressed or fondled is clothed. (Ord. 4517; Ord. 81-61; Ord. 83-257; 1968 Code § 8-31)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 5 GAMBLING

SECTION:

21-5-101: Definitions

21-5-102: Gambling Offenses

21-5-103: Seizure of Gambling Devices, Proceeds

21-5-101: DEFINITIONS:¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

GAIN: The direct realization of winnings.

PROFIT: Any other realized or unrealized benefit, direct or indirect, including benefits from proprietorship, management or unequal advantage in a series of transactions.

GAMBLING: Risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event over which the person taking a risk has no control, but does not include:

- A. Bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries;
- B. Bona fide business transactions which are valid under the law of contracts; or
- C. Other acts or transactions now or hereafter expressly authorized by law;
- D. Any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling.

PROFESSIONAL GAMBLING:

- A. Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or

- B. Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one or more of the other participants.

GAMBLING DEVICE: Any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine.

GAMBLING PREMISE: Any building, house, room, enclosure, vehicle, vessel or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found shall be presumed to be intended to be used for professional gambling.

GAMBLING PROCEEDS: All money or other things of value at stake or displayed in or in connection with professional gambling. (Ord. 4517; 1968 Code § 8-28)

21-5-102: GAMBLING OFFENSES:

- A. Gambling Prohibited. It shall be unlawful for any person to engage in gambling, or professional gambling, as defined herein.
- B. Possession of a Gambling Device. It shall be unlawful for any person to own, manufacture, sell, transport, possess or engage in any transaction designed to affect the ownership, custody, or use of a gambling device, knowing that it is to be used in professional gambling.
- C. Gambling Premises. It shall be unlawful for any person as owner, lessee, agent, employee, operator or occupant, knowingly to maintain or aid or permit the maintaining of a gambling premise. (Ord. 4517; 1968 Code § 8-28)

21-5-103: SEIZURE OF GAMBLING DEVICES, PROCEEDS: All gambling devices, instruments and things used for the purpose of gambling, as well as gambling proceeds are hereby

¹ For definitions of general application, see Section 1-1-203 of this Code.

declared to be contraband and shall be subject to seizure by any peace officer, and may be confiscated and destroyed by order of any judge of the Municipal Court. All gambling proceeds shall be forfeited to the City and transferred by Court order to the General Fund of the City. (Ord. 4517; 1968 Code § 8-28)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 6 OFFENSES AFFECTING PROPERTY

PART 1 GENERAL OFFENSES

SECTION:

21-6-101: Damage to Property
 21-6-102: Trespass on Private Property
 21-6-103: Parking Motor Vehicles on
 Private Property
 21-6-104: Use of Property of Another
 21-6-105: Urination or Defecation

another or in the lawful possession of another without the permission of the owner or person in possession thereof. (Ord. 4517; 1968 Code § 8-35)

21-6-104: USE OF PROPERTY OF ANOTHER: It shall be unlawful for any person to use or cause to be used, in any manner, the real or personal property of another, or in lawful possession of another, for any purpose, including advertising, storage, grazing or recreation, without the permission of the owner or person in possession thereof. (Ord. 4517; 1968 Code § 8-36)

21-6-101: DAMAGE TO PROPERTY:

- A. Private Property. It shall be unlawful for any person intentionally, knowingly or recklessly to injure, deface, destroy or sever in any manner any real or personal property or improvements thereto of any other person in this City. (1968 Code § 8-32)
- B. City Property. It shall be unlawful for any person intentionally, knowingly or recklessly to injure, deface, destroy or sever in any manner any real or personal property or improvements thereto belonging to the City. (Ord. 4517; 1968 Code § 8-33)

21-6-105: URINATION OR DEFECATION: It shall be unlawful for any person to urinate or defecate upon any public place or place within public view other than in a toilet facility provided for such purpose. (Ord. 82-55)

21-6-102: TRESPASS ON PRIVATE PROPERTY: It shall be unlawful for any person intentionally or knowingly to trespass or enter upon the land of another or in possession of another without the permission of the owner or the person in possession thereof, or, having lawfully entered upon such property, to remain thereon after having been directed by the owner or person in possession thereof to depart. (Ord. 4517; 1968 Code § 8-34; 1980 Code)

21-6-103: PARKING MOTOR VEHICLES ON PRIVATE PROPERTY: It shall be unlawful for any person to park or stand a motor vehicle or other personal property on the premises of

(See following page for Chapter 21, Article 6, Part 2)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 6 OFFENSES AFFECTING PROPERTY

PART 2 LITTER

SECTION:

- 21-6-201: Definitions
- 21-6-202: Littering Prohibited
- 21-6-203: Litter Receptacles Required on Public Property
- 21-6-204: Litter Receptacles Required on Private Property
- 21-6-205: Littering From Vehicles: Presumption
- 21-6-206: Sidewalks and Parking Areas to be Kept Free of Litter
- 21-6-207: Bills; Attachment Prohibited
- 21-6-208: Bills; Requirements for Distribution

21-6-201: **DEFINITIONS:**¹ The following terms, as used in this Part 2, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express violation.

LITTER: Any and all rubbish, waste material, refuse, garbage, trash, debris or other foreign substance, solid or liquid, of every form, size, kind and description.

LITTERING: Dumping, dropping, throwing or depositing any litter or otherwise causing or permitting any litter to escape from a vehicle or otherwise. (Ord. 4004; Ord. 4564; Ord. 75-82; 1968 Code § 11-97)

21-6-202: **LITTERING PROHIBITED:** It shall be unlawful for any person to litter on any public or private property in this City or any waters in this City unless:

- A. Such property is an area designated by the State or any of its agencies or political subdivisions, including the City, for the disposal of such material and such person is authorized by the proper public authority to so use such property; or

- B. The litter is placed in a receptacle or container used on such property for such purpose. (Ord. 4004; Ord. 4564; 1968 Code § 11-100.1; 1980 Code)

21-6-203: **LITTER RECEPTACLES REQUIRED ON PUBLIC PROPERTY:** All public officials having supervision of properties of this City shall establish and maintain receptacles for the deposit of litter at locations frequented by the public, shall post signs directing persons to such receptacles, and shall otherwise publicize availability of litter receptacles and the requirements of this Code along City streets and highways in, on or about public places. (Ord. 4004; Ord. 4564; 1968 Code § 11-100.2; 1980 Code)

21-6-204: **LITTER RECEPTACLES REQUIRED ON PRIVATE PROPERTY:**

- A. It shall be unlawful for any owner or occupant of private property, which with his consent is used by the public, to fail or refuse to provide litter receptacles in appropriate locations, to fail to post signs directing persons to such receptacles, or to fail to publicize the availability of litter receptacles on such property.
- B. It shall be unlawful for any person responsible for providing such litter receptacles as determined herein, to fail or refuse to empty such containers as often as is necessary to prevent a nuisance. (Ord. 4564; 1968 Code § 11-100.3; 1980 Code)

21-6-205: **LITTERING FROM VEHICLES; PRESUMPTION:**

- A. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, the operator of said vehicle shall be presumed to have caused or permitted such littering. In the event that positive identification cannot be

1. For definitions of general application, see Section 1-1-203 of this Code.

- A) made, it shall be presumed that the registered owner of such vehicle has caused or permitted such littering to occur.
- B. 1. Whenever litter escapes from a vehicle designed or used as a transporter of material of any description, the person operating the vehicle shall be presumed to have caused or permitted such litter to have been thrown, deposited, dropped or dumped from the vehicle. A vehicle bearing a City-issued trash hauler's license¹ is prima facie a vehicle so designed or used. Violation of this subsection shall result in a minimum fine of one hundred dollars (\$100.00) for each offense.
- 2. It shall be presumed that a vehicle used to transport material is subject to the provisions of subsection B1 of this Section. Such presumption may be rebutted by evidence that such use was for personal purposes and not incidental to a business or employment purpose. (Ord. 4564; 1968 Code § 11-100.5; 1980 Code)

21-6-206: SIDEWALKS AND PARKING AREAS TO BE KEPT FREE OF LITTER:

- A. It shall be unlawful for the owner or person in charge of a place of business or shopping area to fail or refuse to maintain in a clean and unlittered condition the sidewalk area adjacent to such shopping area or place of business and any area used by persons for automobile parking.
- B. It shall be unlawful for persons owning or occupying property to fail or refuse to keep the sidewalk and driveways abutting their premises clean and free of litter.
- C. It shall be unlawful for any person to sweep into or deposit in any gutter, street, alley or other public or private place within the City an accumulation of litter from any building or lot, or from any public or private sidewalk or driveway. (Ord. 4564; 1968 Code §§ 11-100.3, 11-100.4, 11-100.6; 1980 Code)

21-6-207: BILLS; ATTACHMENT PROHIBITED:

¹. See Chapter 8, Article 3, Part 5 of this Code.

- A. It shall be unlawful for any person to attach in any manner or cause the attachment of any bill, notice, announcement or advertisement of any type to any property, real or personal, public or private, which is owned by the City or by another person without the consent of the owner thereof, except as may be permitted by this Code.
- B. The attachment to property, real or personal, public or private of any handbill, sign, poster, advertisement or notice of any kind contrary to subsection A of this Section shall be prima facie evidence that it was attached by the person therein or advertised thereby. (Ord. 4564; 1968 Code § 11-101.1, 11-101.2; 1980 Code)

21-6-208: BILLS; REQUIREMENTS FOR DISTRIBUTION: It shall be unlawful for any person to distribute, scatter, deposit or place or cause the same to be done, upon or about any property, public or private, real or personal, any handbill, circular, card, pamphlet, newspaper, picture or similar matter unless such matter and distribution shall conform in all respects to the following requirements:

- A. The name of the printer or publisher and the City in which his business is located shall be clearly set out on each piece of said matter.
- B. The name and address of the author or person causing such matter to be printed and published shall be clearly set out on each piece of said matter.
- C. Each unit or piece of such matter which does not exceed twelve inches by eighteen inches (12" x 18") shall be placed behind or under a screen or other door, or under a mat or in such a way that it will not blow about the yards or streets. Each unit of such matter which is in excess of twelve inches by eighteen inches (12" x 18") must be folded, rolled or banded in such a way that it will not blow about the yards or streets. (Ord. 4564; 1968 Code § 11-101.3; 1980 Code)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 6 OFFENSES AFFECTING PROPERTY

PART 3 WEEDS

SECTION:

21-6-301: Purpose; Exclusion
 21-6-302: Definitions
 21-6-303: Fire Hazards
 21-6-304: Traffic Hazards
 21-6-305: Clogging of Drainage Ways
 21-6-306: Failure of Owner to Comply
 21-6-307: Enforcement of this Part 3
 21-6-308: Notice and Order
 21-6-309: Appeal of Notice and Order; Hearing
 21-6-310: Failure to Comply with Order to Abate
 21-6-311: Lien Assessment
 21-6-312: Abatement; Emergency Order
 21-6-313: Remedies; Additional

21-6-301: PURPOSE; EXCLUSION: The purpose of this Part 3 is to protect the public health, safety and welfare of the people of the City by eliminating and controlling, to the extent possible, the growth and proliferation of weeds within the City, which become a fire hazard, a traffic hazard, and which clog drainage ways.

This Part 3 shall not apply to land within the City in its natural state which is overgrown with native grasses and plants. 'Land in its natural state' means land which has not been disturbed by digging, scraping or plowing so as to disturb the natural growth indigenous to the area. (Ord. 82-71)

21-6-302: DEFINITIONS:¹ The following terms, as used in this Part 3, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

OWNER: Shall include the owner of record, whether person, partnership, firm, corporation, or other association of persons, any authorized agent or representative of the owner of record, and any occupant of the premises.

PREMISES: A lot or portion thereof, parcel of land, building or establishment. For the purposes of any duty or obligation imposed by this Part 3, such term shall also include an area extending to the center line

of any alley adjacent to such lot or portion thereof, parcel of land, building or establishment, or if no such alley exists, that area including all easements of record, to any including the curb and gutter of the street on any side of such lot or portion thereof, parcel of land, building or establishment. Should there exist no adjacent private property, the premises shall be deemed to include the entire width of any adjacent alley.

WEED: Any plant which:

- A. Ordinarily grows without cultivation,
- B. Is not grown for the purpose of landscaping or food production, and
- C. Will attain such a large growth (not less than 9" in height) or grows in such accumulation as to become a fire hazard when mature. (Ord. 82-71; Ord. 86-214)

21-6-303: FIRE HAZARDS:

- A. The growth of weeds or the accumulation of cuttings, mowings or other debris, or the nonremoval of the same from premises located within the City is hereby declared to be a fire hazard when such growth or accumulations are within fifty five feet (55') of any building or structure.
- B. It shall be the duty of each owner of any premises located within the City to at all times cut and mow the weeds, or remove accumulations of cuttings, mowings or other debris, which are within fifty five feet (55') of any building or structure. (Ord. 82-71; Ord. 86-214)

21-6-304: TRAFFIC HAZARDS:

- A. The growth of weeds or the accumulation of cuttings, mowings or other debris, or the nonremoval of the same from premises located within the City is hereby declared to be a traffic hazard if the growth or accumulations have the effect of obstructing the sight or line of sight of any traffic control device or the safe movement of traffic or pedestrians within the City.

¹ For definitions of general application, see Section 1-1-203 of this Code.

- B. It shall be the duty of each owner of any premises within the City to at all times cut and mow the weeds, or remove any accumulations thereof, on the respective property and in the space between the property line and the curb line in front and in the rear and alongside thereof whenever such growth or accumulations are a traffic or pedestrian hazard as stated above. (Ord. 82-71; Ord. 86-214)

21-6-305: CLOGGING OF DRAINAGE WAYS:

- A. The growth of weeds or the accumulation of cuttings, mowings or other debris, or the nonremoval of the same, from premises located within the City is hereby declared to be a nuisance whenever such growth or accumulation causes or results in the clogging of drainage ways or any drainage structure which is used for the purpose of conveying storm water drainage to safe outfall points.
- B. It shall be the duty of each owner of any premises located within the City to at all times cut and mow the weeds on the respective premises, and to remove accumulations thereof, whenever that growth or accumulation clogs drainage ways or other drainage structures which are designed to convey storm water drainage flows to safe outfall points. (Ord. 82-71; Ord. 86-214)

21-6-306: FAILURE OF OWNER TO COMPLY: In the event of the failure of the owner of any premises located within the City to cut and destroy said weeds, or to have the same cut and destroyed or remove said rubbish and other accumulations or debris in compliance with the foregoing provisions of this Part 3, the City Manager is authorized, by and through his designated representatives, to have the weeds cut, removed and destroyed, along with any accumulations thereof, and assess the cost of such cutting and removal or destruction plus a surcharge not to exceed twenty five percent (25%) for administrative costs against the property in the form of a lien if the owner thereof fails to pay within thirty (30) days of billing in accordance with Section 7-1-104 of this Code. (Ord. 82-71; Ord. 86-214)

21-6-307: ENFORCEMENT OF THIS PART 3: For purposes of this Part 3, the City Manager

is charged with the responsibility of its enforcement. To that end, the City Manager may delegate the responsibility of inspection, the serving of any required notice and orders and the follow-up enforcement procedures. (Ord. 82-71)

21-6-308: NOTICE AND ORDER:

- A. The City Manager, or designated representative, shall commence abatement proceedings pursuant to this Part 3 by issuing a notice and order to the owner, or agent of the owner, and occupant of any premises upon which he has reasonable cause to believe that a condition as described in Sections 21-6-303, 21-6-304 and 21-6-305 exists.
- B. Such notice and order shall:
1. Be in writing;
 2. Be personally served whenever feasible on the owner, or agent of the owner and occupant of such premises or, when such personal service is not feasible, either posted conspicuously at the premises or mailed to such person by certified mail, return receipt requested, to his last known address;
 3. Describe with reasonable particularity the condition existing on the premises which gives rise to the issuance of the notice and order;
 4. Specify a reasonable period within which the condition must be abated or otherwise corrected; and
 5. State that an appeal is available to the owner, agent of the owner or occupant provided written application therefor is made within ten (10) days of service or posting or the receipt of such notice and order. (Ord. 82-71; Ord. 86-214)

21-6-309: APPEAL OF NOTICE AND ORDER; HEARING:

- A. Upon written application to the City Manager within ten (10) days of service or posting or the receipt of the notice and order as provided in Section 21-6-308, a hearing concerning the propriety of such notice and order shall be granted

- A) to the owner, occupant or agent of the owner of the premises. The City Manager shall designate the time and place of such hearing. The City Manager may also designate which individual or Board or Commission shall hear the appeal, depending upon whether the basis of the violation is pursuant to Sections 21-6-303, 21-6-304 or 21-6-305.
- B. At any hearing held pursuant to this Section, the person requesting such hearing shall have the burden of establishing the impropriety of the notice and order by proving that the condition described thereon does not exist on the premises or whether such condition is in violation of any provision of this Part 3.
- C. At the hearing the appellant may be represented by an attorney, cross-examine any adverse witnesses, and present testimony as well as any other form of relevant evidence.
- D. Testimony taken at the hearing held pursuant to this Section shall be under oath and recorded verbatim. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- E. Upon review of the evidence, the City Manager, or the designated individual or Board or Commission, shall make written findings of fact and conclusions of law in support of their decision. The decision of the City Manager, or his designated individual or Board or Commission, shall be final, and any further appeal thereto shall be to the Courts.
- F. In the event that the notice and order is not appealed within the prescribed time limit, or if the appellant fails to appear at the hearing at the time and place designated by the City manager, the notice and order shall automatically become a final order to abate or otherwise correct the condition described therein. (Ord. 82-71; Ord. 86-214)

21-6-310: FAILURE TO COMPLY WITH ORDER TO ABATE:

- A. It shall be unlawful for any person to fail or refuse to comply with any order issued to him pursuant to this Part 3.
- B. In the event that any order issued pursuant to this Part 3 is not complied with at such reasonable time as is specified therein, the City Manager, after notice to the owner, or agent of the owner and occupant, may direct the Code Enforcement Office or may request the Department of Public Works of the City have removed, corrected or otherwise abated through private contract the condition giving rise to the issuance of the order to abate. The procedures outlined in Article 1 of Chapter 7 of this Code for the collection of the cost and expenses thereof shall apply independently and in addition to the penalty provided by this Code for violation of any provision of this Part 3. (Ord. 82-71; Ord. 86-214)

21-6-311: LIEN ASSESSMENT: In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the costs and expenses for the removal, correction or other abatement of the condition giving rise to the issuance of the order to abate, a lien may be assessed against the property for such cost in accordance with Article 1 of Chapter 7 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes. (Ord. 82-71)

21-6-312: ABATEMENT; EMERGENCY ORDER:

- A. Whenever the City Manager deems that an emergency exists which requires immediate action to protect the public health, safety and welfare, he may, without prior notice or hearing, issue an order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this Part 3 to the contrary, such order shall be effective immediately.
- B. Any person to whom such emergency order is issued shall comply therewith immediately, and it shall be unlawful to fail or refuse to so comply.

- C. In the event that the person to whom such emergency order is issued fails or refuses to immediately comply therewith, the City Manager may request, without prior notice to the owner, occupant or agent of the owner, that the Department of Public Works have removed, corrected or otherwise abated the condition giving rise to the issuance of the emergency abatement order. (Ord. 82-71)

21-6-313: **REMEDIES; ADDITIONAL:** The remedies provided in this Article shall be cumulative and in addition any other remedies which may be available to the City Manager. Nothing contained herein shall be construed to preclude the City Manager from seeking such other remedies in addition to, or in lieu of, the remedies herein granted. (Ord. 82-71)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 6 OFFENSES AFFECTING PROPERTY

PART 4 SHOPLIFTING

SECTION:

21-6-401: Shoplifting

21-6-402: Concealment of Goods

21-6-403: Questioning of Person Suspected of Shoplifting without Liability

21-6-401: **SHOPLIFTING:** It shall be unlawful for any person to knowingly, without authorization, or by threat or deception, obtain or exercise control over any goods, wares, merchandise or any other thing of value having a value of less than three hundred dollars (\$300.00) which is owned or held by and offered or displayed for sale by any stores or other mercantile establishment, and

- A. That person intends to deprive the store or mercantile establishment permanently of the use or benefit of the thing of value; or
- B. Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the store or mercantile establishment permanently of its use or benefit; or
- C. Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the store or mercantile establishment permanently of its use or benefit. (Ord. 82-162; Ord. 83-94; Ord. 85-174)

21-6-402: **CONCEALMENT OF GOODS:** If any person wilfully conceals unpurchased goods, wares, merchandise, or any other thing of value owned or held by and offered or intended to be offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his own person or otherwise and whether such shall take place on or off the premises of said store or mercantile establishment, such concealment shall

constitute prima facie evidence that the person intended to commit the offense of shoplifting. (Ord. 82-162; Ord. 83-94)

21-6-403: QUESTIONING OF PERSON SUSPECTED OF SHOPLIFTING

WITHOUT LIABILITY: If any person conceals upon his person or otherwise carries away any unpurchased goods, wares, merchandise or other thing of value owned or held by and offered or intended to be offered or displayed for sale by any store or other mercantile establishment, the merchant or any employee thereof, or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of shoplifting. Such questioning of a person by a merchant, merchant's employee, or peace or police officer does not render the merchant, merchant's employee, or peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention. (Ord. 82-162; Ord. 83-94)

(See following page for Article 7)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 7 DANGEROUS WEAPONS AND SUBSTANCES

PART 1 DANGEROUS AND DEADLY WEAPONS

SECTION:

- 21-7-101: Definitions
- 21-7-102: Unlawful Concealment
- 21-7-103: Possession or Display
- 21-7-104: Discharge of Firearms
- 21-7-105: Selling Weapons to Intoxicated Persons or Minors
- 21-7-106: Exceptions and Defenses
- 21-7-107: Forfeiture and Disposition

21-7-101: **DEFINITIONS:**¹ The following terms, as used in this Article, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

DANGEROUS or DEADLY WEAPONS: Includes:

- A. Any firearm, whether loaded or unloaded, including, but not limited to, any pistol, revolver, rifle, shotgun, air gun, gas operated gun, spring gun, or B-B gun; or
- B. Any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever; or,
- C. Any cross knuckles, or knuckles of lead, brass or other metal; or,
- D. Any bludgeon or blackjack; which latter term shall include any billy, sandclub, sandbag or other hand operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact; or,
- E. Any knife, dirk, dagger or stiletto or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds; or,
- F. Any gravity knife; which term shall mean any knife that has a blade released from the handle

- F) or sheath thereof by the force of gravity or the application of centrifugal force, that when released is locked into place by means of a button, spring, lever or other device; or,
- G. Any switchblade knife; which term shall mean any knife, the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle; or
- H. Any other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner used or intended to be used is calculated to produce serious bodily injury. (Ord. 80-13; 1968 Code § 8-14)

FIREARM: Any handgun, automatic, revolver, pistol, rifle, shotgun or other instrument or device capable or intended to be capable of discharging bullets, cartridges or other explosive charges. (Ord. 4517; 1968 Code § 8-4)

21-7-102: **UNLAWFUL CONCEALMENT:** It shall be unlawful for any person to wear under his clothes, or conceal about his person, or conceal in a motor vehicle within his immediate reach, any dangerous or deadly weapon, except as provided in Section 21-7-106 of this Part 1. For purposes of this Section, "conceal" shall mean placement of the dangerous or deadly weapon in question about the person, or within his immediate reach, in such a manner as to be either completely hidden from view or partially hidden to such an extent that another person making normal contact with that person cannot ascertain the true nature of the weapon. (Ord. 80-13; 1968 Code § 8-14)

21-7-103: **POSSESSION OR DISPLAY:**

- A. Possession.

1. It shall be unlawful for any person, as a patron of an establishment where beer or alcoholic beverages are sold for consumption

¹ For definitions of general application, see Section 1-1-203 of this Code.

A,1) on the premises, to possess or carry or display any dangerous or deadly weapon, whether concealed or not, while on the premises of such establishment. Possession of a permit or license for the possession or carrying of the weapon in question is no defense to a violation of this subsection.

2. It shall be unlawful for any person to sell, display, use, possess or carry any switchblade or gravity knife or blackjack. Any such weapon is declared to be contraband and shall be destroyed.

B. Display. No person shall knowingly and unlawfully display a firearm, whether loaded or unloaded, at or about any person; nor shall any person knowingly and unlawfully draw or exhibit any dangerous or deadly weapon, or any object resembling any such weapon, in the presence of another person, in a rude, angry or threatening manner. Possession of a permit or license for the possession or carrying of the weapon in question is no defense to a violation of this subsection. (Ord. 80-13; 1968 Code § 8-14)

21-7-104: DISCHARGE OF FIREARMS: It shall be unlawful for any person to wrongfully fire or discharge any cannon, gun, pistol or other firearm whatsoever within the City; provided however, that the discharge of firearms using only blank ammunition, by the members of any military company when on parade or when engaged in an official ceremony, done in accordance with the command of the commanding officer, shall not be deemed a violation hereof; nor shall the discharge of firearms at shooting galleries as a licensed business, or as part of a business licensed or permitted to operate within the City be deemed a violation hereof. (Ord. 80-13; 1968 Code § 8-14)

21-7-105: SELLING WEAPONS TO INTOXICATED PERSONS OR MINORS: It shall be unlawful for any person to purchase, sell, loan or furnish any dangerous or deadly weapon to any person intoxicated or under the influence of alcohol or any narcotic or dangerous drug or glue, or to any person in a condition of agitation and excitement, or to any minor under the age of eighteen (18) years. (Ord. 80-13; 1968 Code § 8-14)

21-7-106: EXCEPTIONS AND DEFENSES:

A. It shall be an affirmative defense to an allegation of a violation of any Section of this Part 1 that the act was committed by an enforcement officer of the various law enforcement agencies of the United States government or the State of Colorado, by any sheriff or his deputies, or by any regular, special or ex-officio peace officer. (Ord. 80-13; Ord. 80-58; 1968 Code § 8-14)

B. It shall be an affirmative defense to an allegation of a violation of possession of a switchblade or gravity knife or blackjack, in violation of Section 21-7-103A2 hereof, that the person so accused was a member of the armed forces of the United States, or the Colorado National Guard, acting in the lawful discharge of his duties, or that said person has a valid permit and license for possession of such weapon.

C. It shall be an affirmative defense to an allegation of a violation of Section 21-7-102 hereof, prohibiting the carrying of concealed dangerous or deadly weapons, that:

1. The defendant was a person in his own dwelling or place of business or on property owned or under his control at the time of the act of carrying; or,

2. The defendant was a person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his or another's person or property while traveling; or,

3. The defendant was a person who, prior to the time of carrying a concealed weapon, had been issued a written permit to carry the weapon by the Chief of Police of a city, the mayor of a town or the sheriff of a county; or

4. A person who was a peace officer, as that term is defined in section 18-1-901(3)(I), Colorado Revised Statutes 1973, as that section may now or in the future be amended; or,

5. Where the weapon in question is a knife, other than a switchblade or gravity knife, that

the blade of the knife is three and one-half inches (3 ½") or less in length, or that said knife was a hunting or fishing knife carried for sports use. (Ord. 80-13; 1968 Code § 8-14)

21-7-107: FORFEITURE AND DISPOSITION:

- A. Forfeiture. Any dangerous or deadly weapon, as defined by Section 21-7-101 of this Part 1, used or possessed in violation of Sections 21-7-102 through 21-7-106 hereof, is hereby declared to be contraband and shall be forfeited to the City upon a conviction resulting from such use or possession; provided, however, that, except where the weapon in question is either a "blackjack", as defined in Section 21-7-101, a "switchblade" or "gravity knife", or any other weapon the possession of which is unlawful per se under either State or Federal law, the Municipal Court may, in the exercise of its discretion, upon written motion of the defendant or other party in interest, direct that the weapon not be forfeited but, rather, be returned to the rightful owner thereof.
- B. Disposition. It shall be the duty of every peace officer upon making an arrest and taking such a weapon, thing or substance from the person of the offender to deliver or cause to be delivered the same to the Chief of Police to be held in his custody until the final determination of the prosecution of said offense. The Chief of Police, or his authorized agent, shall dispose of weapons forfeited pursuant to subsection A above by destruction or sale in accordance with procedures and regulations of the Police Department. Any proceeds received from such sale shall, after deducting costs or other expenses of sale, be paid into the Police Department Pension Fund. (Ord. 74-21; Ord. 80-13; 1968 Code § 8-14)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 7 DANGEROUS WEAPONS AND SUBSTANCES

PART 2 OTHER DANGEROUS WEAPONS AND SUBSTANCES

SECTION:

21-7-201: Concealment and Use
 21-7-202: Use of Certain Chemicals Prohibited
 21-7-203: Incendiary or Explosive Devices
 21-7-204: Unlawful to Throw Stones or Missiles
 21-7-205: Reserved
 21-7-206: Firearms Transactions

21-7-201: CONCEALMENT AND USE: It shall be unlawful for any person to wear under his clothes or conceal about his person, or to use or to attempt to use as a weapon, any substance or article containing any substance whatsoever which is required to bear a cautionary label stating that its use in other than the manner prescribed thereby, is dangerous or deadly or injurious to the body of any person or animal, or may be the cause of illness of any person or animal, as such requirements are set forth in the Colorado Hazardous Substances Act,¹ or any other statute of the State of Colorado which may now be or hereafter be enacted to control such injurious substances, or are established by the Federal Hazardous Substances Labeling Act,² or are established by Part 191 of Chapter 1, Title 21 of the Federal Food And Drug Act, as any such statute is now in effect or may hereafter be amended, or are established by any State or Federal regulation promulgated pursuant to any such statutes. (Ord. 4517; 1968 Code § 8-15)

21-7-202: USE OF CERTAIN CHEMICALS PROHIBITED: It shall be unlawful for any person to have in his possession, to sell, to offer for sale, to give away, to lend or to furnish, to use or threaten to use any device for dispensing mace, paralyzing gas, mace or any similar chemicals or combination of chemicals, or other ingredients, designed to injure, maim, paralyze, immobilize or cause the illness of a person or animal, whether or not such substance is packaged in a container under pressure; provided, however, that any such device designed to be carried in a handbag or pocket and

which does not contain more than one and one quarter (1 ¼) ounces of chemical may be possessed by and sold to persons eighteen (18) years of age and older and may be used by such persons in self defense. Nothing in this Section or Section 21-7-201 shall be construed to prohibit the use of such devices by peace officers and mailmen in the discharge of their duties, nor by City employees who have obtained the approval of the Director of Safety to use such devices in the discharge of their duties. (Ord. 79-137; 1968 Code § 8-15)

21-7-203: INCENDIARY OR EXPLOSIVE DEVICES:

- A. It shall be unlawful for any person to throw, place or cause to be placed any incendiary or explosive device for the purpose of causing injury to any person or damage to property.
- B. It shall be unlawful for any person to prepare or to assist in the preparation of an incendiary or an explosive device, to possess, handle, store, transport or sell any such device, knowing the same is to be thrown, placed or caused to be placed for the purpose of causing injury to any person or damage to property.
- C. Except as otherwise permitted by law, it shall be unlawful for any person to possess on his person, in any motor vehicle or in any structure, an incendiary or an explosive device as defined in this Section.
- D. An incendiary or explosive device includes, but not by way of limitation, any device consisting in whole or in part of flammable material or other material having the capability of exploding, igniting or burning. (Ord. 4517; 1968 Code § 8-16)

21-7-204: UNLAWFUL TO THROW STONES OR MISSILES: It shall be unlawful for any person to throw, cast, project or hurl any stone or other missile by any means at or upon any vehicle,

1. C.R.S. 1973 §§ 25-5-501 et seq.

2. Public Law 86-613, Sec. 1-18, 74 Stat. 372-381; 15 USC 1261-2374 dated February 1, 1961.

building, tree or other public or private property, or upon or at any person in any public way or place. (Ord. 4517; 1968 Code § 8-17)

21-7-205: **Reserved.**

21-7-206: **FIREARMS TRANSACTIONS:** Every person required under United States Public Law 90-618, sometimes known as the Omnibus Crime Control and Safe Streets Act of 1968, to prepare and keep firearms transaction records, shall prepare a copy of each record so required and supply such copy daily to the Police Department of the City. (Ord. 3919; 1968 Code § 7-2.1)

CHAPTER 21 PUBLIC OFFENSES

ARTICLE 8 OFFENSES AFFECTING THE ENVIRONMENT

PART 1 NOISE POLLUTION (GENERAL)

SECTION:

- 21-8-101: Noise Prohibited
- 21-8-102: Classification, Measurement of Noise
- 21-8-103: Permissible Noise Levels
- 21-8-104: Permissible Increases
- 21-8-105: Periodic, Impulsive Noises
- 21-8-106: Construction Projects
- 21-8-107: Railroad Rights of Way
- 21-8-108: Hardship Permits

21-8-101: NOISE PROHIBITED:

- A. The making and creating of an excessive or unusually loud noise, or a noise which is unreasonable and objectionable because it is impulsive, continuous, rhythmic, periodic or shrill within the City as heard without measurement or heard and measured in the manner prescribed in Section 21-8-102, is hereby declared to be unlawful; except when made under and in compliance with a permit issued pursuant to Section 21-8-108. In proof of a violation of this Part 1 evidence of noise heard and measured in the manner prescribed in Section 21-8-102, which is less than that required for a conviction by use of test or measurement as set out in Section 21-8-102 may be offered to prove a violation of this Part 1 as heard without measurement. The time and location of the noise as well as the abovementioned characteristics of noise shall be considered in reaching a decision under this Article.
- B. It shall be unlawful for any person to operate or to allow to be operated any type of vehicle, machine, motor, airplane or device or carry on any other activity in such a manner as would be a violation of Sections 21-8-103 and 21-8-201 or other applicable sections contained herein. (Ord. 4517; 1968 Code § 8-38)

21-8-102: CLASSIFICATION, MEASUREMENT OF NOISE: For purposes of determining

and classifying any noise as excess or unusually loud as declared to be unlawful and prohibited by this Article, the following test measurements and requirements may be applied; provided, however, a violation of Section 21-8-101 may occur without the following measurements being made:

- A. Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty five feet (25') from a noise source located within the public right of way, and if the noise source is located on private property or property other than the public right of way, at least twenty five feet (25') from the property line of the property on which the noise source is located.
- B.
 - 1. The noise shall be measured on the "A" weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.
 - 2. For purposes of this Article, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a wind screen.
 - 3. In all sound level measurements consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement. (Ord. 4517; 1968 Code, § 8-39)

21-8-103: PERMISSIBLE NOISE LEVELS: A noise measured or registered as provided above from any source other than as provided in Section 21-8-108 at a level which is equal to or in excess of the db(A) established for the time period and zones listed in this Section, is hereby declared to be excessive and unusually loud and is unlawful.

Zone	7:00 A.M. to next 7:00 P.M.	7:00 P.M. to next 7:00 A.M.
Residential	55 db(A)	50 db(A)
Commercial	60 db(A)	55 db(A)
Light Industrial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)

For purposes of this Part 1, the aforementioned zones shall be defined as follows:

- A. "Residential" means an area of single or multi-family dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple unit dwellings, high-rise apartment districts, and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. "Residential zone" includes educational facilities, hospitals, nursing homes and similar institutions.
- B. "Commercial" means:
1. An area where offices, clinics and the facilities needed to serve them are located;
 2. An area with local shopping and service establishments located within walking distances of the residents served;
 3. A tourist-oriented area where hotels, motels and gasoline stations are located;
 4. A large integrated regional shopping center;
 5. A business strip along a main street containing offices, retail businesses and commercial enterprises;
 6. A central business district; or
 7. A commercially dominated area with multiple unit dwellings.
- C. "Light industrial" means:
1. An area containing clean and quiet research laboratories;
 2. An area containing light industrial activities which are clean and quiet;

- C) 3. An area containing warehousing; or
4. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.
- D. "Industrial" means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operations.
- E. Adjacent Zones. When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern. (Ord. 4517; 1968 Code §§ 8-40, 8-41)

21-8-104: PERMISSIBLE INCREASES: Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the noise levels permitted in Section 21-8-103 may be increased by ten (10) db(A) for a period of not to exceed fifteen (15) minutes in any one hour period. (Ord. 4517; 1968 Code § 8-42)

21-8-105: PERIODIC, IMPULSIVE NOISES: Periodic, impulsive, or shrill noises are hereby declared unlawful when such noises are at a sound level of five (5) db(A) less than those listed in Section 21-8-103 of this Part 1. (Ord. 4517; 1968 Code § 8-43)

21-8-106: CONSTRUCTION PROJECTS: Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of project. (Ord. 4517; 1968 Code § 8-44)

21-8-107: RAILROAD RIGHTS OF WAY: All railroad rights of way shall be considered as industrial zones for the purposes of this Part 1, and the operation of trains shall be subject to the maximum permissible noise levels specified for such zone. (Ord. 4517; 1968 Code § 8-45)

21-8-108: HARDSHIP PERMITS: Applications for a permit, for other than vehicular traffic,

for relief from the noise level designated in this Part 1 on the basis of undue hardship may be made to the City Manager or his duly authorized representative. The noise abatement officer shall make recommendations or comments to the City Manager regarding hardship permits before any permit is granted. Any permit granted by the City Manager or his duly authorized representative hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time for which the permit shall be effective. The City Manager is authorized to designate a fee which reasonably covers administrative costs incurred for the issuance of said permit. The City Manager, or his duly authorized representative, may grant the relief as applied for if he finds:

- A. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this Part 1; or
- B. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with Sections 21-8-103, 21-8-104, 21-8-105 and 21-8-106.
- C. That no other reasonable alternative is available to the applicant; and
- D. The City Manager with the advice of the noise abatement officer, may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 4517; 1968 Code § 8-49)

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PART 2 NOISE POLLUTION (VEHICLES)

SECTION:

- 21-8-201: Vehicle Noise Limits
- 21-8-202: Emergency Vehicles Excepted
- 21-8-203: Jacob's Brakes Prohibited
- 21-8-204: Modifications Prohibited
- 21-8-205: Motorcycles and Off-Highway
Motor Vehicles

- C) authorized representative. In determining what streets shall be designated, the City Manager or his duly authorized representative shall attempt to preserve low decibel noise levels within residential zones and give primary consideration to major arterial streets which allow travel to commercial areas requiring evening access. (Ord. 4517; 1968 Code § 8-48)

21-8-201: VEHICLE NOISE LIMITS:

- A. Vehicles Weighing Less than 10,000 Pounds. A noise measured or registered as provided above from any vehicles weighing less than ten thousand (10,000) pounds in excess of eighty (80) decibels in the "A" weighing scale in intensity shall be and is hereby declared to be excessive and unusually loud and unlawful. (Ord. 4517; 1968 Code § 8-46)
- B. Vehicles in Excess of 10,000 Pounds.
 - 1. A noise measured or registered as provided above from any vehicle weighing more than ten thousand (10,000) pounds in excess of eighty eight (88) decibels in intensity on the "A" weighing scale shall be and is hereby declared to be excessive and unusually loud and unlawful.
 - 2. Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the above decibel levels shall apply to all streets within the City.
 - 3. Between the hours of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M., the above decibel levels shall apply only to designated streets within the City. Traffic on other than designated streets during these hours shall be subject to the decibel level as provided in subsection A above. (Ord. 4517; 1968 Code § 8-47)
- C. Designated Streets. Designated streets shall be named by the City Manager or his duly

21-8-202: EMERGENCY VEHICLES

EXCEPTED: The requirements, prohibitions and terms of this Part 2 shall not apply to any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency. The terms of this Section shall not apply to those activities of a temporary duration, permitted by law and for which a license or permit therefor has been granted by the City, including parades and fireworks displays. (Ord. 4517; 1968 Code § 8-50)

21-8-203: JACOB'S BRAKES PROHIBITED: It shall be unlawful for any person to operate in the City what are commonly referred to as Jacob's Brakes. The City Manager or his duly authorized representative is hereby authorized to place signs at locations about the City as he shall deem appropriate; such signs to notify operators of motor vehicles of this Section. (Ord. 4517; 1968 Code § 8-51)

21-8-204: MODIFICATIONS PROHIBITED: It shall be unlawful for any person to sell, lease, rent or install any device or sell, rent, lease or operate any vehicle, engine, motor or mechanical device with a device which when attached to or placed on any vehicle, engine, motor or other mechanical device so as to amplify or increase the noise emitted by it above that emitted by the vehicle, engine, motor or mechanical device in its original factory design. This Section shall not apply to devices sold for racing or pleasure purposes and used outside the City or in areas properly authorized by the City for pleasure or racing. It shall be unlawful for any person to operate such modified vehicle, engine, motor or device within the City and not in a properly authorized area. (Ord. 4517; 1968 Code § 8-52)

21-8-205: MOTORCYCLES AND OFF-HIGHWAY MOTOR VEHICLES:

A. Findings and Purpose.

1. The City Council finds that the driving, riding and use of motorcycles, motor-driven cycles and off-highway motor vehicles on public and private property within the limits of the City is the cause of noise and dust and of the destruction of plants, landscaping and other real and personal property, and such conduct adversely affects the comfort and privacy of the residents of the City. Because the conduct may be intermittent, fleeting, moving or caused by persons who are minors, other provisions of this Code, as well as other legal remedies, are inadequate to control said conduct and its adverse effects. The provisions of this Section relating to the regulation of motorcycles, motor-driven cycles or off-highway motor vehicles are therefore necessary for the public welfare.

2. The City Council declares that the purpose of this Section is to exercise the general police power in order to protect the enjoyment and use of public and private property, to protect the rights of privacy, to preserve property and personal values, to promote peace and quiet, and to provide management for and promote proper recreational use of motorcycles, motor-driven cycles or off-highway motor vehicles within the City.

3. This Section shall not apply to the driving, riding and use of motorcycles, motor-driven cycles or off-highway motor vehicles on streets and highways or in other areas which are specifically governed or preempted by this Code or the motor vehicle laws of the State of Colorado.

B. Definitions.¹ The following terms, as used in this Section, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.

PROPERTY: Any public or private property which is not an improved public street or highway, or an improved private street constructed in accordance with City standards and approved by the City.

B) VEHICLE: A motorcycle, motor-driven cycle or motor vehicle, as such vehicles are defined in the motor vehicle laws of the State of Colorado, including, but not limited to motor scooters, motor bikes and mini-bikes.

C. Use. It shall be unlawful for any person to drive or ride any vehicle upon any property which is within six hundred sixty feet (660') of a residence or other occupied structure or property authorized for motorcycle use as required herein, except that this subsection C shall not apply in the following instances:

1. Where such vehicle is ridden, driven or used upon property by the owner, resident or tenant of such property; and provided that such operation shall not be within six hundred sixty feet (660') of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants; or

2. Where such vehicle is ridden, driven or used by a visitor when such visitor is accompanied by or has in his possession a copy of a written authorization from the owner or occupant of such property, the original of which has been filed with the City Clerk; and provided that such operation shall not be within six hundred sixty feet (660') of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants; or

3. Where such use is permitted pursuant to the Zoning Code² of the City.

D. Mufflers. It shall be unlawful for any person to drive, ride or use a vehicle upon any property unless said vehicle is at all times equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of the motor vehicle laws of the State of Colorado, as the same now exist or may hereafter be amended,³ and no muffler exhaust system shall be equipped with a cutout, bypass or similar device.

E. Other Regulations. The regulations contained herein do not supersede or preclude the enforcement of zoning regulations or any other regulations contained in this Code which are applicable to any conduct regulated hereby.

1. For definitions of general application, see Section 1-1-203 of this Code.

2. See Chapter 14 of this Code.

3. C.R.S. 1973 § 42-4-222.

- F. Penalty. Every person convicted of a violation of this Section shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense, but shall not be subject to imprisonment or jail sentence. (Ord. 79-63; Ord. 82-164; 1968 Code § 8-52.1)

CITY CODE
OF
COLORADO SPRINGS
COLORADO

1980



STERLING CODIFIERS, Inc.

35 West Commercial
Weiser, Idaho



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**THIS VOLUME III OF THE
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ARTICLE 1 ADMINISTRATION AND ENFORCEMENT
PART 1 GENERAL PROVISIONS

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22-1-101: **TITLE:** This Chapter shall be known as the
 "Traffic Code of the City of Colorado
 Springs" and may be so cited. (Ord. 75-86; 1968
 Code § 6-1-1)

22-1-102: **APPLICABILITY OF PROVISIONS:** This
 Chapter shall apply throughout the
 City and to all areas outside the corporate limits of
 the City the use of which this City has jurisdiction and
 authority to regulate. Those sections of this Chapter
 which by their very language or nature cannot and
 could not apply throughout the City shall be limited
 in application in accordance with such language or
 nature. (Ord. 75-86; 1968 Code § 6-1-2)

22-1-103: PENALTIES:

A. It is a misdemeanor for any person to violate any
 of the provisions of this Chapter. (Ord. 75-86;
 1968 Code § 6-1-4)

- B. Every person convicted of the violation of any
 provision stated or adopted in this Chapter shall
 be punished as provided in Section 1-2-101 of
 this Code; except that any person convicted of
 a violation of any provision under Articles 11,
 12, 13, 14 or 15 and Sections 22-16-104,
 22-16-105, and 22-22-107 of this Chapter shall
 be subject only to a fine in accordance with the
 schedule of fines established by the Presiding
 Judge of the Municipal Court pursuant to
 Section 22-1-103C below, or in accordance
 with an appropriate order of a Judge or referee
 of the Municipal Court. (Ord. 77-171; Ord.
 83-306; 1968 Code § 6-1-4)
- C. The Presiding Judge shall designate the specified
 offenses under this Chapter for which payments
 of fines may be accepted by the Violations
 Bureau¹ and those parking violations for which
 penalty assessment notices may be issued, and
 shall specify by suitable schedules the amount
 of such fines for first, second and subsequent
 offenses and shall further specify which and
 what number of offenses shall require
 appearance before the Court. He shall also
 designate costs to be assessed for late payment
 of penalty assessment notices. (Ord. 75-86;
 1968 Code § 6-1-4)

22-1-104: PROCEDURES:

- A. General. The procedures contained in Chapter
 4 of this Code shall be applicable to offenses
 under this Chapter unless otherwise provided in
 this Chapter.
- B. Payment of Designated Fine in Violations
 Bureau. Any person charged with an offense or
 violation of this Chapter included in the schedule
 promulgated in accordance with Section
 22-1-103C for which a fine may be paid in the
 Violations Bureau, shall have the option of
 paying such fine within the time specified upon
 entering a plea of guilty and upon waiving
 appearance in Court. Acceptance of payment of
 the prescribed fine shall be deemed a complete
 satisfaction for the violation, and no defendant
 shall be permitted to withdraw such

¹. See Part 4 of this Article.

- B) a plea after thirty (30) days following such payment.
- C. **Penalty Assessment.** An officer coming upon an unattended vehicle which is in apparent violation of any provision of this Chapter, may place upon the vehicle a penalty assessment notice indicating the offense and directing the owner or operator of the vehicle to remit the penalty assessment provided for in the schedule promulgated by the Presiding Judge in accordance with Section 22-1-203C of this Chapter to the Clerk of the Municipal Court, within seven (7) days. If the penalty assessment is not paid within seven (7) days of the issuance of such notice, the Clerk of the Municipal Court shall mail a notice to the registered owner of the vehicle, setting forth the offense and the time and the place where it occurred and directing the payment of the penalty assessment plus costs designated by the Presiding Judge in accordance with Section 22-1-103C within twenty (20) days from the issuance of the notice. If the penalty assessment is not paid within such twenty (20) days from the date of mailing of such notice, the Clerk of the Municipal Court shall request the police officer who issued the original penalty assessment notice to file a complaint with the Municipal Court and issue and serve upon the registered owner of the vehicle a summons to appear in Court at a time and place specified therein as in the case of other offenses.
- D. **When Person Arrested Must be Taken Before Court.** Whenever a person is arrested for any violation of this Chapter, he shall be taken without unnecessary delay before a Municipal Judge in any of the following cases:
1. When he is charged with an offense which caused or contributed to an accident resulting in serious personal injury or death to any person;
 2. When he does not furnish satisfactory evidence of identity;
 3. When he refuses to sign or promise to appear;
 4. Whenever continued detention or posting of a surety bond by the accused person is

- D,4) necessary to prevent imminent bodily harm to the accused or to another;
5. When he has previously failed to appear for trial for an offense concerning which he had given his written promise to appear;
 6. When there is an outstanding warrant for his arrest;
 7. When the officer has reasonable grounds to believe he will disregard a written promise to appear in Court.
- E. **When Judge is Unavailable.** In the event that no Municipal Judge is available at the time that a person is taken into custody for the purpose of taking him before the Municipal Court for any violation of this Chapter, there shall be established by the Presiding Judge a bail bond schedule and available personnel to accept adequate security for such bail bonds upon satisfaction of which the person charged shall be released from custody pending his required appearance before the Court.
- F. **Compliance with Promise to Appear.** A written promise to appear in Court may be complied with by an appearance of counsel.
- G. **Procedure Prescribed not Exclusive.** The foregoing provisions of this Section shall govern all police officers in making arrests without a warrant for violations of this Chapter committed in their presence, but the procedure prescribed therein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution for an offense of like grade. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-1-5)

22-1-105: **PARTIES TO A CRIME:** Every person who commits, conspires to commit or aids or abets in the commission of any act declared in this Chapter to be a crime, whether individually or in connection with one or more persons or as principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, knowingly, forcibly or wilfully induces, causes, coerces, requires, permits or directs another to violate any provisions of this Chapter, is likewise guilty of such offense. (Ord. 75-86; 1968 Code § 6-1-6)

22-1-106: OFFENSES BY PERSONS CONTROLLING VEHICLES:

- A. It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.
- B. It shall be unlawful for any person who owns or who has control, possession or charge of any vehicle to permit the following persons to drive, have charge of, operate or control such vehicle:
 - 1. Anyone whose operator's or chauffeur's license has been denied, cancelled, suspended or revoked by any governmental agency or lawful authority.
 - 2. A person who has never obtained a current valid operator's or chauffeur's license, or who has an expired license.
 - 3. Any person who has a fictitious or fraudulently altered operator's or chauffeur's license.
 - 4. Any person who is under the influence of intoxicating beverages, narcotics or drugs.
 - 5. Any person who has not yet reached the sixteenth anniversary of his or her birth.
 - 6. Any person who is either physically or mentally disabled, injured or incapacitated, either temporarily or permanently, when such incapacity interferes with such person's ability to operate a motor vehicle in a ready and safe manner. (Ord. 75-86; 1968 Code § 6-1-7)

22-1-107: PRESUMPTION IN REFERENCE TO ILLEGAL PARKING: In any prosecution charging a violation of any provision of this Chapter governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking a registered owner of such vehicle, shall constitute in evidence a prima facie presumption that such registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred. (Ord. 75-86; 1968 Code § 6-1-8)

22-1-108: AUTHORITY OF OFFICER AT SCENE OF ACCIDENT: A police officer at the scene of a traffic accident may issue a written summons or notice as provided in this Article to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable grounds to believe that the person has committed any offense under the provisions of this Chapter in connection with the accident. (Ord. 75-86; 1968 Code § 6-1-9)

22-1-109: INCLUDED OFFENSES: A defendant may be convicted of an offense included in an offense charged in the summons and complaint. An offense is so included when it is established by proof of the same or less than all the facts required to establish the commission of the offense charged, or when it differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest or a lesser kind of culpability suffices to establish its commission. The Court shall not be obligated to charge the jury with respect to an included offense unless there is a rational basis for a verdict acquitting the defendant of the offense charged and convicting him of the included offense. If the same conduct is prohibited in different sections of this Chapter, the offender may be prosecuted under any one or all of such sections. It shall be immaterial to such prosecution that one of the sections characterizes the crime as of lesser degree than another, or was enacted by the City Council at a later date than another unless the later section specifically repeals the earlier. (Ord. 75-86; 1968 Code § 6-1-10)

22-1-110: LOSING RIGHT OF WAY: Any person who drives a vehicle in such a manner as to constitute a violation of this Chapter, when such violation interferes with the ability of another driver to yield the right of way to such person, shall lose the right of way which he would have had under ordinary circumstances. Any person who commits any violation of the traffic rules and regulations set out in this Chapter, shall not lose his right of way per se, but it shall be the responsibility of the Court hearing such case to determine whether such violation interfered with the ability of the driver to so yield. (Ord. 75-86; 1968 Code § 6-1-11)

22-1-111: NOTICE CHARGING SPEED VIOLATION: In every charge of

violation relating to speed limits, the complaint or summons or notice to appear shall specify the speed at which the defendant is alleged to have driven, and the speed limit applicable within the district or at the location in this City. (Ord. 75-86; 1968 Code § 6-1-12)

22-1-112: CONVICTION RECORD INADMISSIBLE IN CIVIL ACTION: No record of the conviction of any person for any violation of this Chapter shall be admissible as evidence in any Court in any civil action. (Ord. 75-86; 1968 Code § 6-1-13))

22-1-113: TRAFFIC VIOLATION NOT TO AFFECT CREDIBILITY OF WITNESS: The conviction of a person upon a charge of violating any provision of this Chapter or other traffic regulation less than felony, shall not affect or impair the credibility of such person as a witness in any civil or criminal proceedings. (Ord. 75-86; 1968 Code § 75-86)

22-1-114: ILLEGAL CANCELLATION OF SUMMONS OR NOTICE: It shall be unlawful for any person to cancel or solicit the cancellation of any traffic summons or notice in any manner other than process of law. (Ord. 75-86; 1968 Code § 6-1-15)

22-1-115: GARAGES TO REPORT: The person in charge of any garage or repair shop to which any motor vehicle is brought which shows evidence of having been involved in an accident, or of being struck by a bullet, shall report or cause to be reported to the Police Department not later than twenty four (24) hours after such motor vehicle is received, and before any repairs are made to such vehicle, the engine number, the registration number and the name and address of the driver, owner or person in control of the motor vehicle with the description of the location and type of damage to the vehicle or any missing parts. (Ord. 75-86; 1968 Code § 6-1-16)

22-1-116: TOWING COMPANIES TO REPORT: The person in charge of any towing service by which any motor vehicle is towed at the request of any person other than the registered owner or a police officer, shall report within twenty four (24)

hours to the Police Department the engine number, registration number, and the name and address of the person requesting the tow, with a general description of the motor vehicle being towed. (Ord. 75-86; 1968 Code § 6-1-17)

22-1-117: AUTHORITY TO MOVE VEHICLES: Whenever any police officer finds a vehicle standing upon a street, highway or restricted parking area in violation of the provisions of this Chapter prohibiting the standing of such vehicle in such place, such officer is hereby authorized to move such vehicle, require the driver or other person in charge of the vehicle to move the same to a legal standing position, or to have the vehicle removed in accordance with the procedures set forth in Article 25 of this Chapter. (Ord. 75-86; 1968 Code § 6-1-18)

22-1-118: TRAFFIC PLAN: The major traffic thoroughfare plan for the City is hereby amended to conform with a map designated as the principal street systems map for the City, approved by the most current resolution of the City Council, on file in the office of the City Clerk, which map is hereby incorporated in and made a part hereof by reference. (Ord. 2674; Ord. 85-263; 1968 Code § 1-151)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC
ARTICLE 1 ADMINISTRATION AND ENFORCEMENT
PART 2 DEFINITIONS

SECTION:

22-1-201: Construction of Words
 22-1-202: Definitions

22-1-201: CONSTRUCTIONS OF WORDS:

- A. The following terms, as used in this Chapter, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision.¹
- B. Whenever any words and phrases used in this Chapter are not defined herein but are defined in the State laws regulating the operations of vehicles,² any such definition therein shall be deemed to apply to such words and phrases used in this Chapter. (Ord. 85-263)

22-1-202: DEFINITIONS:

ACCELERATION LANE: A speed change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with thru traffic.

ACCIDENT: Any event that results in unintended injury, either fatal or nonfatal, or any property damage attributable directly or indirectly to the motion of a motor vehicle or its load.

ALLEY or ALLEYWAY: A narrow minor street, usually without sidewalks, on which the rears of buildings customarily adjoin.

AUTHORIZED EMERGENCY VEHICLE: Such a vehicle of the Fire Department, police vehicles and ambulances as are publicly owned, and such other publicly or privately-owned vehicles as are designated by the State motor vehicle licensing agency as provided under section 42-4-106(5), C.R.S.

BARRICADE: A portable or fixed device, to include cones, vertical panels and drums with appropriate markings, used to control traffic by closing, restricting, or delineating all or a portion of the right of way to traffic.

BICYCLE: Every device propelled by human power upon which any person may ride, having two (2) or more wheels, any of which is more than fourteen inches (14") in diameter.

BUS: Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle other than a taxicab, designed and used for the transportation of persons for compensation.

BUS STAND or STOP: A designated area adjacent to a curb or edge of the roadway assigned for the use of buses during the loading or unloading of passengers.

BUSINESS DISTRICT: The territory contiguous to a street or highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred feet (300') or more is occupied by buildings in use for business.

CENTER LINE: A line either marked or unmarked dividing the roadway between traffic moving in opposite directions.

COMMERCIAL VEHICLES: Every vehicle designated, maintained or used primarily for the transportation of property.

CONTROLLED-ACCESS STREET or HIGHWAY: Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

COURT: The Municipal Court of the City.

1. For definitions of general application, see Section 1-1-203 of this Code.

2. C.R.S. 1973, title 42.

CROSSWALK: That portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections or any portion of a roadway distinctly indicated for pedestrian crossing by lines or markings on the surface.

DECELERATION LANE: A speed change lane, including tapered areas, for the purpose of enabling a vehicle that is to make an exit turn from a roadway to slow to the safe speed on the ramp ahead after it has left the mainstream of faster moving traffic.

DESIGNATED TRUCK ROUTE: A street or roadway designated as the official truck route system by the traffic engineer from which thru travel by trucks is permitted.

DIVIDED HIGHWAY: A highway with separated roadways for traffic in opposite directions, such separation being indicated by depressed dividing strips, raised curbs, traffic islands or other physical separations, or indicated by standard pavement markings or other official traffic control devices.

DRIVER: Every person who drives or is in actual physical control of a vehicle.

ELDERLY PERSON: A person who has reached the age of sixty five (65).

EXCLUDED ROUTE: A street or roadway from which the use of a certain class of traffic is not allowed.

FARM TRACTOR: Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

FREIGHT or PASSENGER LOADING ZONE: A designated space for the exclusive use of vehicles during the loading or unloading of freight or passengers.

HANDICAPPED PERSON: A "handicapped person" means a person so severely handicapped that he is unable to move from place to place without the aid of a mechanical device or who has a physical impairment verified, in writing, by the director of the division of rehabilitation or a physician licensed to practice medicine in this State that such impairment limits substantially his ability to move from place to place.

IMPLEMENT OF HUSBANDRY: Every vehicle which is

designed for agricultural purposes and used by the owner thereof in the conduct of his agricultural operations. Such term shall also include equipment used solely for the application of liquid, gaseous and dry fertilizers. Transportation of fertilizer, in or on the equipment used for its application, shall be deemed a part of application if it is incidental to such application. Such term shall also include hay balers, hay stacking equipment, combines, and other heavy movable farm equipment primarily used on farms and not on the highways.

INTERSECTION:

- A. The area embraced within the prolongation of lateral curb lines or, if none, then the lateral boundary lines of two (2) or more streets or highways which join one another at an angle, whether or not one such street or highway crosses the other.
- B. Where a street or highway includes two (2) roadways thirty feet (30') or more apart, then every crossing of each roadway of such divided street or highway by an intersecting street or highway shall be regarded as a separate intersection.
- C. In the event such intersecting street or highway also includes two (2) roadways thirty feet (30') or more apart, then every crossing of two (2) or more roadways of such streets or highways shall be regarded as a separate intersection.

JUDGE: A judge of the Municipal Court of the City.

LANE: The portion of a roadway for the movement of a single line of vehicles.

LANE-DIRECTION CONTROL SIGNAL: A traffic control signal which is erected to control the direction of vehicular traffic movement in an individual lane.

LANE LINE: A line other than a center line separating two (2) lanes of traffic moving in the same direction.

LANED STREET or HIGHWAY: A street or highway, the roadway of which is divided into two (2) or more clearly marked lanes for vehicular traffic.

LITTER: All rubbish, waste material, refuse, garbage, trash, debris or other foreign substance, solid or liquid, of every form, size, kind and description.

LOADING ZONE: A designated space reserved for the exclusive use of vehicles during the loading or unloading of passengers or property.

MARKINGS: All lines, patterns, words, colors or other devices, except signs, set into the surface of, applied upon or attached to the pavement of curbing or to objects within or adjacent to the roadway, conforming to State standards as required by law and officially placed for the purpose of regulating, warning or guiding traffic.

MEDIAN or CENTRAL DIVIDING STRIP: That portion of a divided street or highway separating the travelled ways for traffic in opposite directions.

MOTORCYCLE: Every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground except any vehicle as may be included within the term "farm tractor" as herein defined.

MOTOR DRIVEN CYCLE: Every motorcycle, including every motor scooter, with a motor which produces not to exceed six (6) brake horsepower, and every bicycle with motor attached, but not trail bikes, minibikes, go-carts, golf carts and similar vehicles which are not designed for, or approved by the Department of Revenue for use on the public roads or highways.

MOTOR VEHICLE: Any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and/or property over the public highways.

MUNICIPAL COURT CLERK: The Clerk of the Municipal Court of the City.

OFFICIAL TIME STANDARD: Whenever certain hours are named herein, they shall mean the standard time or daylight-saving time as may be in current use in the City.

OFFICIAL TRAFFIC CONTROL DEVICES: All signs, signals, markings and devices consistent with statute or this Chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

OWNER: A person who holds the legal title of a vehicle or, in the event a vehicle is the subject of any agreement for the conditional sale or lease thereof, a person with the right of purchase upon performance

of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner, or parties otherwise having lawful use of control or the right to use or control a vehicle for a period of thirty (30) days or more.

PARK or PARKING: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

PARKING METER: A mechanical time-measuring device authorized by this City to be used for the purpose of regulating parking.

PEDESTRIAN: Any person afoot.

PEDESTRIAN-CONTROL SIGNAL: A traffic control signal which is erected for the exclusive purpose of directing pedestrian traffic at signalized locations.

PLAY STREET: Any street or part thereof set apart and properly signed or marked for recreation purposes.

POLICE OFFICER: Every officer authorized to direct or regulate traffic or to make arrest for violations of traffic regulations.

PRESIDING JUDGE: The Municipal Judge appointed by the City Council to serve as the executive head of the Municipal Court.

PRIVATE ROAD OR DRIVEWAY: Every road or driveway not open to the use of the public for purposes of vehicular travel.

PROHIBITED ROUTES: A street or roadway that is not a designated truck route.

RAILROAD: A carrier of persons or property upon cars, other than street cars, operated on stationary rails.

RAILROAD SIGN or SIGNAL: Any sign, signal or device erected by authority of a public body or official or by a railroad, and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

RAILROAD TRAIN: A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

RAMP: A turning or interconnecting roadway of a traffic interchange.

RESIDENCE DISTRICT: The territory contiguous to a street or highway not comprising a business district when the frontage on such for a distance of three hundred feet (300') or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

RESTRICTED ROUTE: A street or roadway from which travel upon is limited to vehicles or loads of certain weight of size.

RIGHT OF WAY: The privilege of the immediate use of the street or highway, this being the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances or direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

ROAD MACHINERY AND CONSTRUCTION EQUIPMENT: Those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance and repair of roadways and the digging of ditches.

ROAD TRACTOR: Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

ROADWAY: That portion of a highway improved, designed or ordinarily used for vehicular travel. In the event a street or highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

SAFETY ZONE: The area or space officially set aside within a street or highway for the exclusive use of

pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

SCHOOL BUS: Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation, but not including informal or intermittent arrangements such as sharing of actual gasoline expense, or participation in a car pool, for the transportation of children to or from school.

SCHOOL ZONES: The area or space along a street or highway adjacent to or near a public, elementary or private school, and which is plainly marked to indicate by proper signs that the area is a school zone.

SEMI-TRAILER: Any wheeled vehicle, without motive power, which is designed to be used in conjunction with a truck tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such truck tractor and which is generally and commonly used to carry and transport property over the public highways.

SIDEWALK or SIDEWALK AREA: That portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

SNOWMOBILE: A self-propelled vehicle primarily designed for travel on snow or ice, and supported in part by skis, belts or cleats.

STAND or STANDING: The halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

STOP: When required, means the complete cessation of movement.

STOP LINE or LIMIT LINE: A line which indicates where drivers shall stop when directed by an official traffic control device or a police officer.

STOP or STOPPING: When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

STREET or HIGHWAY: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel; or the entire width of every way declared to be a public street or highway by any law of this State. The terms "street" and "highway" are synonymous and interchangeable.

TAXI AND TAXICAB: A licensed public motor vehicle for hire, designed and constructed to seat not more than ten (10) persons and operating as a common carrier on call or demand.

TAXI-TAXICAB STAND: A designated area adjacent to the curb set aside and assigned for taxicab to stand or wait for passengers.

THROUGH STREET or HIGHWAY: Every street or highway or portion thereof on which vehicular traffic is given preferential right of way at the entrances to which vehicular traffic from intersecting streets or highways is required by law to yield right of way to vehicles on such through street or highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this Chapter.

TRAFFIC: Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together while using any street or highway for the purpose of travel.

TRAFFIC CONTROL SIGNAL: Any device, whether manually, electrically or mechanically operated by which traffic is alternately directed to stop and permitted to proceed.

TRAFFIC ENGINEER: The City Traffic Engineer appointed pursuant to Section 22-1-308 of this Chapter. The terms "City Traffic Engineer" and "Traffic Engineer" are synonymous and interchangeable.

TRAILER: Any wheeled vehicle, without motive power, having an empty weight of more than two thousand (2,000) pounds, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

TRAILER COACH or MOBILE HOME: Any wheeled vehicle which is a single, self-contained unit, without motive power, which is designed and generally and commonly used for occupancy by persons for

residential purposes, in either temporary or permanent locations, and which may occasionally be drawn over the public highways by a motor vehicle.

TRUCK: Any motor vehicle equipped with a body designed to carry property and which is generally and commonly used to carry and transport property over the public highways, when the gross vehicle weight rating (G.V.W.R.) is in excess of ten thousand (10,000) pounds. Such term shall also include commercial vehicles, road machinery, construction equipment, road tractors and truck tractors, when the gross vehicle weight rating exceeds ten thousand (10,000) pounds.

TRUCK TRACTOR: Any motor vehicle which is generally and commonly designed to draw a semi-trailer and its cargo load over the public highways.

VEHICLE: Any device which is capable of moving itself, or being moved, from place to place upon wheels or endless tracks; but such term shall not mean or include any farm tractor or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations, or any device moved by muscular power, or moved exclusively over stationary rails or tracks, or designed to move primarily through the air.

YIELD: To take appropriate action to grant the right of way. (Ord. 85-263)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC
ARTICLE 1 ADMINISTRATION AND ENFORCEMENT
PART 3 ADMINISTRATION

SECTION:

22-1-301: Traffic Duties of the Police Department
 22-1-302: Records of Traffic Violations
 22-1-303: Investigation of Traffic Accidents
 22-1-304: Traffic Accident Studies
 22-1-305: Traffic Accident Reports
 22-1-306: Drivers' Records Maintained and Studied
 22-1-307: Annual Traffic Safety Report
 22-1-308: Office of Traffic Engineer
 22-1-309: Duties and Powers of Traffic Engineer
 22-1-310: Division of Authority Over State Highways
 22-1-311: Uniform Standards For Traffic Control Devices
 22-1-312: Official Traffic Control Records
 22-1-313: Emergency and Experimental Regulations; Revocable Permits
 22-1-314: Prohibited Driveways
 22-1-315: Work Zone Traffic Controls

22-1-301: TRAFFIC DUTIES OF THE POLICE DEPARTMENT: It shall be the duty of the Chief of Police and other members of the Police Department to enforce the provisions of this Chapter and the State Motor Vehicle laws applicable to traffic in this City, to make arrests for traffic violations, to investigate traffic accidents, to cooperate with the Traffic Engineer and/or other officials of this City in the administration of this Chapter and in developing ways and means to improve traffic conditions, and to carry out those duties especially imposed by this Chapter. (Ord. 75-86; 1968 Code § 6-26-1)

22-1-302: RECORDS OF TRAFFIC VIOLATIONS:
 The Police Department or the Traffic Violations Bureau shall keep a record of all violations of the traffic laws of this City or of the State vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Said records shall:

A. Be so maintained as to show all types of viola-

A) tions and the total of each;

B. Accumulate during at least a three (3) year period and from that time on the records shall be maintained complete for at least the most recent three (3) year period;

C. Be public records as defined under applicable City, State and Federal laws. (Ord. 75-86; 1968 Code § 6-26-2)

22-1-303: INVESTIGATION OF TRAFFIC ACCIDENTS: It shall be the duty of the Police Department to investigate traffic accidents occurring within this City, either by investigation at the time of or at the scene of the accident, or thereafter by interviewing participants or witnesses, to issue summonses and complaints for traffic violations in connection with traffic accidents, and to assist in the prosecution of those persons charged with violations of law causing or contributing to accidents. (Ord. 75-86; 1968 Code § 6-26-3)

22-1-304: TRAFFIC ACCIDENT STUDIES:
 Whenever the accidents at any particular location or along any particular street or highway within this City become numerous, the Police Department shall cooperate with the Traffic Engineer or other designated official responsible for traffic operations in conducting studies of such accidents and determining remedial or corrective measures. (Ord. 75-86; 1968 Code § 6-26-4)

22-1-305: TRAFFIC ACCIDENT REPORTS:

A. The Police Department shall obtain from the State Department of Revenue standard forms and accident reports required by State law, and thereon shall report sufficiently detailed information to disclose with reference to a traffic accident which has been investigated by said police or concerning which said police have received notification the contributing circumstances, conditions then existing and the persons and vehicles involved.

- B. Every traffic accident report required to be made in writing shall be made on a form approved and furnished by the said Department of Revenue.
- C. The Police Department may require any driver of a vehicle involved in an accident of which written report must be given as provided by law to give additional information concerning said accident whenever the information originally obtained is insufficient in the opinion of said Department and may require witnesses of accidents to give information concerning the accident.
- D. The Police Department shall maintain a suitable system of filing copies of investigators' traffic accident reports with reference to drivers and accident locations and shall make such reports available to the Traffic Engineer and other officials having use of the records for accident prevention purposes. (Ord. 75-86; 1968 Code § 6-26-5)

22-1-306: DRIVERS' RECORDS MAINTAINED AND STUDIED:

- A. The Police Department or the Traffic Violations Bureau shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.
- B. Said Department shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or involved in frequent accidents or any serious accident, and shall attempt to discover the reasons therefor, and shall take whatever steps are lawful and reasonable to prevent further violations and accidents including, where desirable, recommendations to the proper authorities for the suspension or revocation of the drivers' licenses of such persons.
- C. Such records shall accumulate during at least a three (3) year period and from that time on, such records shall be maintained complete for at least the most recent three (3) year period. (Ord. 75-86; 1968 Code § 6-26-6)

22-1-307: ANNUAL TRAFFIC SAFETY REPORT: The Police Department shall annually prepare a traffic report which shall be filed with the City Manager and shall contain information on traffic matters in this City as follows:

- A. The finances, personnel, training, facilities and physical plant of the Department;
- B. The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;
- C. The number of traffic accidents investigated and other pertinent data on the safety activities of the police;
- D. The number and types of traffic violations and totals of each type of violation;
- E. The plans and recommendations of the Department for future traffic safety activities. (Ord. 75-86; 1968 Code § 6-26-7)

22-1-308: OFFICE OF TRAFFIC ENGINEER: The office of the Traffic Engineer is hereby created in the Department of Public Works. The Traffic Engineer shall be appointed by the City Manager and he shall exercise the powers granted to him in this Chapter, consistent with the provisions of the Charter of the City.¹ (Ord. 75-86; 1968 Code § 6-26-8)

22-1-309: DUTIES AND POWERS OF TRAFFIC ENGINEER: It shall be the general duty of the Traffic Engineer to determine the installation and proper timing and maintenance of official traffic control devices, to conduct analyses of traffic accidents and to devise remedial or corrective measures, to conduct investigation of traffic conditions, to plan the operation of traffic on the streets and highways of this City, and to cooperate with other City officials in the development of ways and means to improve traffic conditions and to carry out such additional powers and duties as are imposed by this Chapter. By way of example, but not by way of limitation, the Traffic Engineer is hereby authorized, consistent with the provisions of this Chapter, to act as follows:

- A. Install, maintain and remove traffic control devices;

1. See City Charter, Article V, § 26.

- B. Designate and mark medians in traffic islands;
- C. Conduct speed zoning studies and post speed limits;
- D. Designate minimum speed as provided by law;
- E. Regulate speed and traffic movement by traffic signals and provide for the synchronization of such signals wherever practicable;
- F. Designate one-way streets and roadways;
- G. Designate through streets or roadways and control entrances thereto;
- H. Designate stop or yield intersections and erect stop or yield signs thereat or elsewhere;
- I. Establish restrictions, prohibitions and regulations for the parking, standing or stopping of vehicles;
- J. Designate parking zones for taxicabs, press, television, radio cars and the like;
- K. Install parking meters, designate parking meter spaces, and establish time limitations and rates therefor based on an engineering and traffic investigation;
- L. Establish towaway zones;
- M. Designate upon which streets angle parking shall be permitted;
- N. Designate and sign intersections at which drivers shall not make a right or left turn, a U turn or any turn at all times or during certain times;
- O. Designate and sign intersections where multiple turns shall be allowed;
- P. Mark center lines and lane lines and place other pavement markings necessary for the regulation and control of traffic;
- Q. Install and maintain crosswalks at intersections or other places where there is particular danger to pedestrians crossing the roadway;
- R. Establish safety zones at such places where necessary for pedestrian protection;
- S. Install pedestrian control signals and designate those crossings where angle crossing by

- S) pedestrians shall be permitted;
- T. Establish play streets;
- U. Establish truck routes upon the recommendation of the Truck Route Committee; and establish truck loading zones;
- V. Designate and sign those streets and roadways where pedestrians, bicyclists or other nonmotorized traffic, or persons operating a motor-driven cycle shall be excluded as provided by law;
- W. Designate and sign those streets upon which vehicles or loads of a certain weight or size shall be restricted;
- X. Provide for temporary street or alley closures by the erection of barricades;
- Y. Issue special permits for parking, stopping or standing, for curb loading operations, for the movement of vehicles having excess size or weight, for the movement of trucks on restricted routes or prohibited routes. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-26-9)
- Z. Designate school zones. (Ord. 79-32)

22-1-310: DIVISION OF AUTHORITY OVER STATE HIGHWAYS:

- A. All traffic and parking restrictions on streets which are a part of the State Highway System shall be regulated and enforced by this City, except that pursuant to C.R.S. 1973, Chapter 42, Article 4 and Chapter 43, Article 2, such regulations on said streets shall be subject to the approval of the State Department of Highways before becoming effective.
- B. No stop sign or traffic control signal shall be erected or maintained at any location within this City so as to require the traffic on any State highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the State Department of Highways.
- C. The Traffic Engineer is authorized to accept, upon the basis of engineering and traffic investigations and studies, recommendations

- C) of the State Department of Highways for speed limits upon any State highway within this City, and such speed limit shall be effective when appropriate signs giving notice thereof are erected along said highways or roadways, regardless of whether said signs are placed by the State Department of Highways or by the Traffic Engineer of this City. (Ord. 75-86; 1968 Code § 6-26-10)

22-1-311: UNIFORM STANDARDS FOR TRAFFIC CONTROL DEVICES: It shall be the duty of the Traffic Engineer, or other official charged with responsibility for traffic in this City, to see that all traffic control devices required hereunder are uniform as to type and location as required by State law. (Ord. 75-86; 1968 Code § 6-26-11)

22-1-312: OFFICIAL TRAFFIC CONTROL RECORDS:

- A. The Traffic Engineer shall cause records to be kept of all the streets or parts of streets where traffic regulations have been authorized and sign posted pursuant to the provisions of this Chapter.
- B. Said records shall include records of streets and parts of streets where the following regulations and controls have been authorized and made effective:
1. Speed limits determined pursuant to Section 22-5-103;
 2. Minimum speed limits established pursuant to Section 22-5-106;
 3. One-way streets established pursuant to Section 22-9-101;
 4. Stopping or standing restricted or prohibited pursuant to Section 22-13-102;
 5. Parking prohibited or restricted pursuant to Section 22-13-102;
 6. Parking meter zones installed pursuant to Section 22-15-101;
 7. Right-turn-on-red and left-turn-on-red prohibitions declared pursuant to Sections 22-17-105C1a and 22-17-105C1b;
 8. Weight limitations imposed pursuant to

- B,8) Section 22-20-106;

9. Traffic signals authorized pursuant to Section 22-1-310;

10. Truck routes as designated pursuant to Section 22-21-102.

- C. Said records shall be open to public inspection during business hours and copies thereof made available to courts and other concerned agencies and officials requesting the same. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-26-12)

22-1-313: EMERGENCY AND EXPERIMENTAL REGULATIONS; REVOCABLE PERMITS:

- A. The Traffic Engineer is hereby empowered to make regulations necessary to make effective the provisions of this Chapter, and to make and enforce temporary and experimental regulations to cover emergencies and special conditions; provided, however, that such regulations are promulgated in writing, signed by the Traffic Engineer and maintained in his office as public records, in accordance with the provisions of this Code. No such experimental or temporary regulations shall remain in effect for more than ninety (90) days.
- B. The Traffic Engineer is hereby empowered to grant to adjacent property owners a revocable permit to use street right of ways between such owner's property line and the travelled portion of such adjacent street upon terms and conditions prescribed by the Traffic Engineer, when in his judgment the granting of such permit will not be in conflict with the policies of the Traffic Engineer, or create a traffic hazard; provided, however, that the use of the street right of way between the travelled roadway and the property line of property located in Zone M-1 and Zone M-2 of the City, may be used for parking of motor vehicles and other transportation facilities, except when the Traffic Engineer determines and so notifies the owner of the abutting property that such use is hazardous to traffic. The decision of the Traffic Engineer denying a request for such revocable permit or determination that such use is hazardous to traffic, may be appealed by such owner to the Council within thirty (30) days after notice of such decision to the owner by the Traffic Engineer. (Ord. 75-86; 1968 Code § 6-26-13)

22-1-314: PROHIBITED DRIVEWAYS: After full investigation and consideration of the vehicular traffic and in particular the possibility of traffic hazard incidents, the promotion of proper movement of traffic, pedestrian travel safety and the public welfare and safety generally, the Traffic Engineer may direct or order that an existing driveway or entrance from a public street be closed, relocated or redesigned at the expense of the owner of the premises abutting the street where the driveway is located. The decision of the Traffic Engineer shall be reduced to writing and a copy thereof transmitted by registered mail to the owner of the premises at which the driveway is requested or exists. Within fifteen (15) days after said notice has been mailed, the owner of the affected premises may appeal the decision of the Traffic Engineer to the Council which may affirm, modify or reverse said decision. (Ord. 75-86; 1968 Code § 6-26-14)

- C. All traffic controls instituted under this Section shall conform with the latest edition of the Manual of Uniform Traffic Control Devices. (Ord. 87-1)

22-1-315: WORK ZONE TRAFFIC CONTROLS:

- A. All persons performing any work-related activity, including but not limited to construction, maintenance, and installation or repair of utilities, in any street, highway, or public right-of-way, shall provide adequate work zone traffic control. Except as provided in subsection B of this Section, such work zone traffic control shall not be deemed adequate unless it is in accordance with a traffic control plan approved by the Traffic Engineer prior to commencement of such activity.
- B. Prior approval by the Traffic Engineer of a traffic control plan shall not be required when the work-related activity is commenced by reason of an emergency; provided, however, that the persons performing such activity shall immediately notify the Police Department and shall also notify the Traffic Engineer as soon as practicable; and provided further, that such persons engaging in the activity shall submit to the Traffic Engineer for approval a traffic control plan not later than the first regular business day following commencement of the activity. Should such traffic control plan not be approved by the Traffic Engineer, the provisions of subsection A of this Section shall apply, unless a bona fide emergency still exists.

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 1 ADMINISTRATION AND ENFORCEMENT

PART 4 TRAFFIC VIOLATIONS BUREAU¹

SECTION:

22-1-401: Bureau Established
 22-1-402: General Duties
 22-1-403: Procedures

22-1-401: BUREAU ESTABLISHED:

- A. The Clerk of the Municipal Court may establish a Traffic Violations Bureau to assist the Municipal Court with the clerical work of traffic cases. The Violations Bureau may be separate from or integrated with the overall operations of the office of the Clerk of the Court.
- B. The Clerk of the Municipal Court shall be in charge of the Traffic Violations Bureau and said Bureau shall be open on such days and at such hours as may be established by said Clerk. Ord. 75-86; 1968 Code § 6-27-1)

22-1-402: GENERAL DUTIES: In addition to those duties enumerated in Chapter 4 of this Code, the Clerk of the Municipal Court and the personnel of the Traffic Violations Bureau shall:

- A. On behalf of the Municipal Court, provide summonses and complaints, penalty assessment notices and other forms necessary for the administration of this Chapter. Said summonses and complaints shall be serially numbered and issued to and receipted for by the Chief of Police for use by his officers.
- B. Accept designated fines, issue receipts and maintain written records of the guilty pleas and waivers of appearance of violators who have requested and are permitted to so plead.
- C. Fix the time of trial for persons who must, or wish to be heard in Court, enter the time of their appearance on the Court docket, and notify the City Attorney's office of such trials.

D. Keep an easily accessible record of all violations of which each person has been guilty during the preceding thirty six (36) months, whether such guilt was established in Court or by a plea of guilty in payment of a fine or a penalty assessment at the Traffic Violations Bureau, unless such records are kept by and available from the Police Department pursuant to Section 22-1-302 of this Chapter.

- E. Cooperate with the State Department of Revenue in the development and use of a coding system for traffic citations.
- F. Keep or cause to be kept a full record of every case in which a person is charged with any violation of any of the provisions of this Chapter.
- G. Forward to the State Department of Revenue a record of the conviction of any person in said Court for a violation of any provision of this Chapter after such conviction, provided that report need not be made of any conviction involving illegal parking or standing of a vehicle, pedestrian or bicycle violations. (Ord. 75-86; 1968 Code § 6-27-2)

22-1-403: PROCEDURES: The Traffic Violations Bureau shall follow such procedures and perform such duties as may be prescribed by the ordinances of this City, the City Manager or the Presiding Judge. (Ord. 75-86; 1968 Code, § 6-27-3)

¹ A Municipal Court referee is authorized to hear certain ordinance violations relating to parking or other ordinances designated by the Presiding Judge. See Chapter 4, Article 5 of this Code.

*CHAPTER 22 MOTOR VEHICLES AND TRAFFIC***ARTICLE 2 RIGHT OF WAY**

SECTION:

22-2-101: Vehicle Approaching, Entering
Uncontrolled Intersection

22-2-102: Vehicles Turning Left

**22-2-101: VEHICLE APPROACHING,
ENTERING UNCONTROLLED
INTERSECTION:**

- A. When two (2) or more vehicles approach an uncontrolled intersection from different streets or highways, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.
- B. The driver of a vehicle shall approach each uncontrolled intersection in a cautious and prudent manner and with the vehicle under such control that the driver of the vehicle can stop such vehicle and yield the right of way at any intersection to any vehicle which is entitled to the right of way. (Ord. 75-86; 1968 Code § 6-2-1)

22-2-102: VEHICLES TURNING LEFT: The driver of a vehicle intending to turn left shall yield the right of way to any vehicle approaching from the opposite direction and shall not make such turn until it can be done with safety and without interference with other traffic. (Ord. 75-86; 1968 Code § 6-2-2)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 3 THROUGH, STOP AND YIELD INTERSECTIONS

SECTION:

22-3-101: Approaching Stop or Yield Intersections

22-3-102: Stop or Yield Signs at Other Than Intersections

22-3-101: APPROACHING STOP OR YIELD INTERSECTIONS:

- A. The driver of a vehicle shall stop in obedience to a "Stop" sign or yield in compliance with a "Yield" sign, as required in subsections B and C of this Section, and shall proceed cautiously yielding to vehicles not so obligated to stop or yield and which are within the intersection or approaching so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided, that if such driver is involved in a collision with the vehicle in the intersection, after driving past a "Stop" or "Yield" sign, such collision shall be deemed prima facie evidence of his failure to yield right of way.
- B. Every driver of a vehicle approaching a "Stop" intersection indicated by a "Stop" sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.
- C. The driver of a vehicle approaching a "Yield" sign if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. (Ord. 75-86; 1968 Code § 6-3-1)

22-3-102: STOP OR YIELD SIGNS AT OTHER THAN INTERSECTIONS:

- A. The driver of a vehicle approaching a stop sign not at an intersection and controlling his direction of travel shall stop at a clearly marked stop line, but if none, at such sign, and shall proceed cautiously yielding to traffic not so obligated to stop.
- B. The driver of a vehicle approaching a yield sign not at an intersection and controlling his direction of travel shall, if required for safety, stop and in any event proceed cautiously yielding to traffic not so obligated to yield. (Ord. 75-86; 1968 Code § 6-3-2)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 4 SPECIAL STOPS AT RAILROAD CROSSINGS, DRIVEWAYS

SECTION:

- 22-4-101: Obedience to Stop Sign at Railroad Crossing
- 22-4-102: Obedience to Railroad Signals
- 22-4-103: Certain Vehicles to Stop at All Grade Crossings
- 22-4-104: Moving Heavy Equipment at Railroad Crossing
- 22-4-105: Driving Upon or Along Railroad Right of Way
- 22-4-106: Emerging From or Entering Alley, Driveway or Building
- 22-4-107: Stop for School Buses
- 22-4-108: Stop When Traffic Obstructed

22-4-101: OBEDIENCE TO STOP SIGN AT RAILROAD CROSSING: Where stop signs are erected at railroad crossings either by authority of the State Department of Highways or by authority of this City, the driver of any vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such grade crossing and shall proceed only upon exercising due care. (Ord. 75-86; 1968 Code § 6-4-1)

22-4-102: OBEDIENCE TO RAILROAD SIGNALS:

- A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirement shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

- A) 3. A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance, and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or down for the purpose of preventing such crossing, or is being opened or closed. (Ord. 75-86; 1968 Code § 6-4-2)

22-4-103: CERTAIN VEHICLES TO STOP AT ALL GRADE CROSSINGS:

- A. The driver of any motor vehicle designed to carry ten (10) or more passengers, or of any school bus carrying any school child, or of any vehicle carrying explosives or hazardous materials as a cargo or part of a cargo, or of any vehicle designed to carry flammable liquids, whether empty or loaded, before crossing any track or tracks of a railroad, shall stop such vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely.
- B. After stopping as required in this Section and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.
- C. No stop need be made at any such crossing where a police officer or a traffic control signal directs traffic to proceed.

- D. When stopping as required at such railroad crossing, the driver shall keep as far to the right of the roadway as possible and shall not form two (2) lanes of traffic unless the street or roadway is marked for four (4) or more lanes of traffic.
- E. The stopping requirements set forth in subsections A and B of this Section shall not apply where it has been determined by this City or the State that trains are not operating during certain periods or seasons of the year and an official sign carrying the legend "Exempt Crossing" has been erected giving notice when so posted that such crossing is exempt from the stopping requirement. (Ord. 75-86; 1968 Code § 6-4-3)

22-4-104: MOVING HEAVY EQUIPMENT AT RAILROAD CROSSING:

- A. No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than nine inches (9") above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this Section.
- B. Notice of any such intended crossing shall be given to a representative of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
- C. Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet (15') nor more than fifty feet (50') from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
- D. No such crossing shall be made when warning is given by automatic signal, crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.
- E. Subsection C of this Section shall not apply where it has been determined by this City or the

- E) State that trains are not operating during certain periods or seasons of the year and an official sign carrying the legend "Exempt Crossing" has been erected giving notice when so posted that such crossing is exempt from the stopping requirement. (Ord. 75-86; 1968 Code § 6-4-4)

22-4-105: DRIVING UPON OR ALONG RAILROAD RIGHT OF WAY:

- A. It shall be unlawful for any person to operate any motor vehicle along or upon any railroad right of way except at the intersections of public thoroughfares in such rights of way.
- B. The provisions of subsection A of this Section shall not apply to Federal, State or City motor vehicles, nor shall those provisions apply to railroad motor vehicles or to persons operating motor vehicles upon such rights of way with the permission of the railroad. (Ord. 75-86; 1968 Code § 6-4-5)

22-4-106: EMERGING FROM OR ENTERING ALLEY, DRIVEWAY OR BUILDING:

- A. The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into a sidewalk area extending across any alleyway or driveway, and shall yield the right of way to any pedestrian or vehicle as may be necessary to avoid collision, and prior to entering the roadway shall yield the right of way to all vehicles approaching on or upon said roadway.
- B. The driver of a vehicle about to enter or cross a street or highway from a private road or driveway, when not required by subsection A of this Section to stop, shall yield the right of way to any pedestrian or vehicle as may be necessary to avoid collision, and shall yield the right of way to all vehicles approaching on or upon said street or highway.
- C. The driver of a vehicle entering an alley or driveway shall yield the right of way to any pedestrian within or about to enter the sidewalk area extending across such alley or driveway. (Ord. 75-86; 1968 Code § 6-4-6)

22-4-107: STOP FOR SCHOOL BUSES:

- A. The driver of a vehicle upon any street or highway, upon meeting or overtaking from either direction any school bus which is stopped, shall stop his vehicle before reaching such bus if there is in operation on said school bus visual signal lights as specified in Section 22-22-104 of this Chapter, and said driver shall not proceed until such visual flashing lights are no longer being actuated.
- B. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway.
- C. The driver of any school bus shall stop as far as possible to the right of the street or highway before discharging or loading passengers and shall not stop at any place where the visibility is obscured for a distance of two hundred feet (200') in either direction. (Ord. 75-86; 1968 Code § 6-4-7)

22-4-108: STOP WHEN TRAFFIC OBSTRUCTED: No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control indication to proceed. (Ord. 75-86; 1968 Code § 6-4-8)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 5 SPEED REGULATIONS

SECTION:

- 22-5-101: Reasonable and Prudent Speed
- 22-5-102: Unposted Speed Limits
- 22-5-103: Posted Speed Limits
- 22-5-104: Exceeding Posted Speed Limit
- 22-5-105: Special Hazards
- 22-5-106: Minimum Speed Regulations
- 22-5-107: Speed Contests
- 22-5-108: Regulation by Traffic Signals
- 22-5-109: Emergency Vehicles Exempt From Speed Limits

22-5-101: **REASONABLE AND PRUDENT**

SPEED: No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions then existing. (Ord. 75-86; 1968 Code §§ 6-5-1, 6-5-2)

22-5-102: UNPOSTED SPEED LIMITS: Where speed limits are not posted, and where no special hazard exists, the following speed shall be lawful but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

- A. Thirty (30) miles per hour on streets and highways;
- B. Twenty (20) miles per hour on park roadways;
- C. Fifteen (15) miles per hour in alleys. (Ord. 75-86; 1968 Code, §§ 6-5-1, 6-5-2)

22-5-103: **POSTED SPEED LIMITS:**

- A. Whenever the City Traffic Engineer shall determine on the basis of an engineering and traffic investigation that any prima facie speed limit set forth in Section 22-5-102 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or

- A) other place or upon any parts of any street or highway, the Traffic Engineer shall determine and declare a reasonable and safe maximum speed limit not to exceed fifty five (55) miles per hour thereat which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street or highway. (Ord. 75-86; 1968 Code § 6-5-3)
- B. Appropriate signs giving notice that the prima facie speed limit set forth in Section 22-5-102 is the maximum speed may be posted by the Traffic Engineer. (Ord. 79-32; 1968 Code § 6-5-3)
- C. Whenever speed limits are established in accordance with this Section, such speed limit shall be recorded as provided in Section 22-1-312 of this Chapter. (Ord. 75-86; 1968 Code, § 6-5-2)
- D. It is hereby determined that the speed limits determined, posted and recorded as provided herein are the maximum reasonable or safe speed limits at such locations.
- E. It is hereby determined that the speed of twenty (20) miles per hour is the maximum reasonable and safe speed in school zones, and the Traffic Engineer shall establish such by posting appropriate signs giving notice thereof in lieu of the requirements of this Section. (Ord. 79-32; 1968 Code § 6-5-3)

22-5-104: **EXCEEDING POSTED SPEED LIMIT:**

It shall be unlawful for any person to drive any vehicle in excess of the posted speed limit. (Ord. 79-32; 1968 Code § 6-5-4)

22-5-105: SPECIAL HAZARDS: The fact that the speed of a vehicle is lower than the limits established in this Chapter shall not relieve the driver from the duty to decrease speed when a special hazard exists with respect to pedestrians or

other traffic by reason of weather or roadway conditions. (Ord. 77-69; 1968 Code § 6-5-5)

22-5-106: MINIMUM SPEED REGULATIONS:

- A. No person shall drive a motor vehicle on any street at such a slow speed as to impede or block the normal and reasonable forward movement of traffic, except when a reduced speed shall be necessary for safe operation of such vehicle or in compliance with law. In any prosecution for a violation of this Section, a speed more than ten (10) miles per hour under the speed limit shall be prima facie evidence of being an impediment to the normal flow of traffic.
- B. It is hereby determined upon the basis of an engineering and traffic investigation that slow speeds on certain streets described in traffic control records as provided in Section 22-1-312 consistently impede the normal and reasonable movement of traffic on such facilities described in said records and it is hereby declared that the minimum speed limit upon those streets or expressways therein designated shall be as therein stated, which speed so declared shall be effective at the time specified therein when signs are erected giving notice thereof. Any speed less than such minimum speed limit shall be prima facie evidence that such lesser speed is unlawful, except when a reduced speed shall be necessary for the safe operation of such vehicle when special hazard exists. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-5-6)

22-5-107: SPEED CONTESTS:

- A. No person shall engage in any motor vehicle speed or acceleration contest or exhibition of speed or acceleration on a street or highway, and no person shall aid or abet in any such motor vehicle speed or acceleration contest or exhibition on any street.
- B. No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed or acceleration contest upon a street or public right of way in any manner obstruct or place any barricade, obstruction, starting or timing device or assist or participate in placing any such barricade, obstruction, starting or timing device upon any street or public right of way. (Ord. 75-86; 1968 Code § 6-5-7)

22-5-108: REGULATION BY TRAFFIC SIGNALS:

Traffic signals may be timed, as authorized in Section 22-1-309 of this Chapter, so as to permit the movement of traffic in an orderly and safe manner at speeds at variance from the speed limit otherwise applicable to the street or area. (Ord. 75-86; 1968 Code § 6-5-8)

22-5-109: EMERGENCY VEHICLES EXEMPT FROM SPEED LIMITS:

- A. The speed limitations set forth in this Article shall not apply to an authorized emergency vehicle when the driver is responding to an emergency call and is making use of visual and audible signals as prescribed by law, nor shall said speed limitations apply to a police vehicle while in actual pursuit of a suspected violator of any provision of this Chapter or any other law so long as such pursuit is being made to obtain verification of or evidence of the guilt of the suspected violator or to apprehend the suspected violator.
- B. The provisions of subsection A shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall such provisions protect the driver of any such vehicle from the consequences of a reckless disregard for the safety of others. (Ord. 75-86; 1968 Code § 6-5-9)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC
ARTICLE 6 RECKLESS DRIVING AND CARELESS DRIVING

SECTION:

22-6-101: Reckless Driving

22-6-102: Careless Driving

22-6-101: RECKLESS DRIVING: It shall be unlawful for any person to drive any vehicle in this City in wilful or wanton disregard for the safety of persons or property. Any violation of Sections 22-5-102 or 22-5-104 of this Chapter where the rate of speed is fifty five (55) miles per hour or greater in a speed limit zone of thirty five (35) miles per hour or less shall be prima facie evidence of reckless driving. (Ord. 75-86; 1968 Code § 6-6-1)

22-6-102: CARELESS DRIVING: Every person operating a motor vehicle on a highway, street, public way or elsewhere in this City, shall drive the same at a speed and in a manner which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing; and every driver of a vehicle, in compliance with legal requirements and the duty to use due care, shall use every reasonable means to avoid endangering or colliding with any person, property, vehicle or other conveyance anywhere within the City. (Ord. 75-86; 1968 Code § 6-6-2)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 7 STARTING AND TURNING, SIGNALS ON STOPPING AND TURNING

SECTION:

22-7-101: Starting Parked Vehicle
 22-7-102: Signals Required on Movement of Vehicle
 22-7-103: Position and Method of Turning
 22-7-104: Signals By Hand and Arm or
 Signal Device
 22-7-105: Method of Giving Hand and Arm Signals
 22-7-106: Limitations on Turning Around
 22-7-107: Obedience to Turn Prohibition Signs

22-7-101: STARTING PARKED VEHICLE: No person shall start or move a vehicle which is stopped, standing or parked unless such movement can be made with reasonable safety. (Ord. 75-86; 1968 Code § 6-7-1)

22-7-102: SIGNALS REQUIRED ON MOVEMENT OF VEHICLE:

- A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section 22-7-103 of this Chapter, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in Section 22-7-104 and 22-7-105 of this Chapter.
- B. A signal of intention to turn right or left when required shall be given continuously during at least the last one hundred feet (100') travelled by the vehicle before turning, except that such signal shall be given continuously for at least two hundred feet (200') on all highways where the speed limit is more than forty (40) miles per hour. Such signals shall be given regardless of existing weather conditions.
- C. No person shall stop or suddenly decrease the speed of a vehicle without first giving a signal in

- C) the manner provided in Sections 22-7-104 and 22-7-105 of this Chapter to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (Ord. 75-86; 1968 Code § 6-7-2)

22-7-103: POSITION AND METHOD OF TURNING:

- A. Except where official markings or signs direct a different course, the driver of a vehicle intending to turn shall do so as follows:
 - 1. Right Turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
 - 2. Left Turn. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn shall be made to the left of the center of the intersection or other location so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.
 - 3. Two-Way Left Turn Lanes. Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices, a left turn shall not be made from any other lane, and a vehicle shall not be driven in said special lane except when preparing for or making a left turn from or into a roadway, driveway or alley, or when preparing for or making a U-turn when otherwise permitted by law.
- B. At any intersection or other location designated by the City Traffic Engineer, and where authorized signs are erected and posted giving notice thereof, turns may be made in the direction indicated by such signs from more than one lane of traffic as indicated by such signs.

- B) When any turn is so made the driver of the vehicle making the turn shall keep sufficient distance between his vehicle and another vehicle turning in the same direction so as to avoid a collision, and shall enter the same lane of traffic on the street turned into as such vehicle was in on the street turned from, and no such turn shall be made regardless of the posted signs permitting the same unless it can be done with safety. The driver making any such turn shall give the appropriate signal as is required in making any other turn as provided for in this Chapter.
- C. Whenever a lane of traffic on any street or highway is designated by an official traffic control device as a right or left turn only lane, it shall be unlawful for the driver of a vehicle in such lane to make any other movement at an intersection. (Ord. 83-317)

22-7-104: SIGNALS BY HAND AND ARM OR SIGNAL DEVICE:

- A. Any stop or turn signal required by Section 22-7-102 of this Chapter shall be given either by means of the hand and arm or by a signal light or signal device of a type approved by the State Department of Revenue, except as otherwise provided in subsection B of this Section.
- B. Any motor vehicle in use on a street in this City shall be equipped with, and required signals shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside of the body, cab or load of such motor vehicles exceeds twenty four inches (24"), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet (14'). The latter measurement shall apply to any single vehicle, also to any combination of vehicles.
- C. The signals provided for in subsection B of this Section shall be used to indicate an intention to turn, change lanes or start from a parked position and shall not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. (Ord. 75-86; 1968 Code § 6-7-4)

22-7-105: METHOD OF GIVING HAND AND ARM SIGNALS: All signals herein required to be given by hand and arms shall be given by the driver from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- A. Left turn - hand and arm fully extended horizontally.
- B. Right turn - hand and arm fully extended upward.
- C. Stop or decrease of speed - hand and arm fully extended downward. (Ord. 75-86; 1968 Code § 6-7-5)

22-7-106: LIMITATIONS ON TURNING AROUND:

- A. The driver of a vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street or highway within this City under any of the following conditions:
 - 1. Upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be entirely seen by the driver of any other vehicle approaching from either direction within seven hundred fifty feet (750').
 - 2. Upon any physically-divided street or highway except as permitted under the provisions of Section 22-10-101 of this Chapter.
 - 3. At any place where official signs are erected prohibiting such movement.
- B. The driver of any vehicle shall not turn a vehicle upon any other street or highway within this City unless such movement can be made in safety and without interfering with other traffic. (Ord. 75-86; 1968 Code § 6-7-6)

22-7-107: OBEDIENCE TO TURN PROHIBITION

SIGNS: Whenever official signs are erected prohibiting or restricting a right or left turn, a U-turn or all turns, as authorized in Section 22-1-309, no driver shall disobey the directions of any such sign. (Ord. 75-86; 1968 Code § 6-7-7)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 8 DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING, FOLLOWING

SECTION:

- 22-8-101: Drive on Right Side; Exceptions
- 22-8-102: Passing Oncoming Vehicles
- 22-8-103: Overtaking a Vehicle on the Left
- 22-8-104: When Overtaking on the Right is Permitted
- 22-8-105: Limitations on Overtaking on the Left
- 22-8-106: Following Too Closely

22-8-101: DRIVE ON RIGHT SIDE; EXCEPTIONS:

- A. Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
 - 1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - 2. When an obstruction exists making it necessary to drive to the left of the center of the street or highway; provided, that any person so doing shall yield the right of way to all vehicles travelling in the proper direction upon the unobstructed portion of the street or highway within such distance as to constitute an immediate hazard;
 - 3. Upon a roadway divided into three (3) lanes for traffic under the rules applicable thereon; or
 - 4. Upon a roadway designated and sign-posted for one-way traffic.
- B. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the righthand lane then available for traffic, or as close as practicable to the righthand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

- C. Upon any roadway having four (4) or more lanes for moving traffic and providing for two (2) way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection A2 hereof. (Ord. 75-86; 1968 Code § 6-8-1)

22-8-102: PASSING ONCOMING VEHICLES:

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one half of the main traveled portion of the roadway as nearly as possible. (Ord. 75-86; 1968 Code, § 6-8-2)

22-8-103: OVERTAKING VEHICLE ON THE LEFT:

- A. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Ord. 75-86; 1968 Code § 6-8-3)

22-8-104: WHEN OVERTAKING ON THE RIGHT IS PERMITTED:

A driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- A. When the vehicle overtaken is making or giving indication of making a left turn;
- B. Upon a street with unobstructed pavement not occupied by parked vehicles and marked for two (2) or more lanes of moving vehicles in the direction of travel of the passing vehicle;
- C. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and marked for two (2) or more lanes of moving vehicles.
- D. Under no condition shall an attempt be made to pass upon the shoulder of any portion of the roadway remaining to the right of the indicated righthand traffic lane. (Ord. 75-86; 1968 Code § 6-8-4)

22-8-105: LIMITATIONS ON OVERTAKING ON THE LEFT:

- A. No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this Article, and unless such left side is clearly visible and free of oncoming traffic for sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction of any vehicle overtaken.
- B. In every event said overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement is made on highways outside a business or residence district and involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet (200') of any approaching vehicle.
- C. Except upon one-way roadways, no vehicle shall at any time be driven to the left side of the roadway under the following conditions:
 - 1. When approaching the crest of a grade or upon a curve where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

- C) 2. When approaching within one hundred feet (100') of or traversing any intersection or railroad crossing.
- 3. When the view is obstructed upon approaching within one hundred feet (100') of any bridge, viaduct or tunnel.
- D. Where signs or markings are in place to define a "No Passing" zone, no driver shall at any time drive on the left side of any pavement striping designed to mark such "No Passing" zone throughout its length except to turn left into an alley or driveway where such movement does not interfere with any traffic movement. (Ord. 75-86; 1968 Code § 6-8-5)

22-8-106: FOLLOWING TOO CLOSELY:

- A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and condition of the street or highway.
- B. The driver of any motor truck or motor vehicle drawing another vehicle when travelling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another such vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.
- C. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be operated so as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions, military and/or police escorted processions. (Ord. 75-86; 1968 Code § 6-8-6)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC**ARTICLE 9 ONE-WAY STREETS AND ALLEYS, ROADWAYS LANED FOR TRAFFIC****SECTION:**

22-9-101: One-Way Streets and Alleys
22-9-102: Driving on Roadways Laned for Traffic
22-9-103: Reversible Lane Control

22-9-101: ONE-WAY STREETS AND ALLEYS:

Upon those streets and parts of streets and in those alleys, designated as authorized in Section 22-1-309 and described in Traffic Control Schedules as provided in Section 22-1-312, a vehicle shall be driven only in the indicated direction when official signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited. (Ord. 75-86; 1968 Code § 6-9-1)

22-9-102: DRIVING ON ROADWAYS LANED FOR TRAFFIC:

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

- A. A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- B. Official traffic control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by the traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such device.
- C. Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device. (Ord. 75-86; 1968 Code § 6-9-2)

22-9-103: REVERSIBLE LANE CONTROL:

Official traffic control devices may be erected, as authorized in Section 22-1-309 of this Chapter, designating streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day, regardless of the center line of the roadway and drivers shall obey the directions of all such devices. (Ord. 75-86; 1968 Code § 6-9-3)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 10 DRIVING ON DIVIDED STREETS, CONTROLLED ACCESS HIGHWAYS

SECTION:

22-10-101: Driving on Divided Streets

22-10-102: Controlled Access Roads

22-10-101: DRIVING ON DIVIDED STREETS:

- A. Whenever any street or highway has been divided into separate roadways by leaving an intervening space or by a physical barrier or clearly-indicated dividing sections so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the righthand roadway, unless directed or permitted by official traffic control devices to use another roadway.
- B. No vehicle shall be driven over, across or within any dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection as established, and then only if such movement is not specifically prohibited by official signs and markings or by the provisions of Section 22-7-106 of this Chapter. (Ord. 75-86; 1968 Code § 6-10-1)

22-10-102: CONTROLLED ACCESS ROADS:

- A. No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by public authority.
- B. Whenever an acceleration lane has been provided in conjunction with a ramp entering a controlled access highway, and the ramp intersection is not designated or signed as a stop or yield intersection as provided in Section 22-7-106 of this Chapter, drivers may use the acceleration lane to attain a safe speed for merging with thru traffic when conditions permit such acceleration with safety; provided, that traffic so merging shall be subject to the rule governing the changing of lanes as set forth in Section 22-9-102A.

- C. Whenever a deceleration lane has been provided in conjunction with a ramp leaving a controlled access highway, drivers shall use such lane to slow to a safe speed for making an exit turn after leaving the mainstream of faster moving traffic.
- D. Pedestrians, bicyclists or other nonmotorized traffic, or any person operating a motor-driven cycle, shall be excluded from use of any controlled access roadway when official signs are erected on or at entrances to any such roadway, giving notice thereof as authorized in Section 22-1-309 of this Chapter.
- E. The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled access highway. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-10-2)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 11 METHOD OF PARKING

SECTION:

22-11-101: Parking at Curb or Edge of Roadway
 22-11-102: Obedience to Angle Parking Signs or Markings
 22-11-103: Unattended Motor Vehicle
 22-11-104: Parking Not to Obstruct Traffic or Maintenance
 22-11-105: Parking in Alleys
 22-11-106: Moving Unattended Vehicle
 22-11-107: Clearance Between Vehicles
 22-11-108: Waiting for Parking Space Being Cleared

22-11-101: **PARKING AT CURB OR EDGE OF ROADWAY:**

- A. Except where angle parking is permitted by this Chapter and, in the case of State highways, is approved by the State Department of Highways, and except as otherwise provided by this Chapter, every vehicle stopped or parked upon a two (2) way roadway shall be so stopped or parked with the right hand wheels parallel to and within twelve inches (12") of the right hand curb or edge of the roadway.
- B. Except where angle parking is permitted by this Chapter, every vehicle stopped or parked upon a one way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right hand wheels within twelve inches (12") of the right hand curb or edge of the roadway, or its left hand wheels within twelve inches (12") of the left hand curb or edge of the roadway. (Ord. 75-86; 1968 Code § 6-11-1)

22-11-102: **OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS:**

On those streets which have been approved and signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings with the front portion of the vehicle next to the curb. (Ord. 75-86; 1968 Code § 6-11-2)

22-11-103: **UNATTENDED MOTOR VEHICLE:**

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, or when standing upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway. (Ord. 75-86; 1968 Code, § 6-11-3)

22-11-104: **PARKING NOT TO OBSTRUCT TRAFFIC OR MAINTENANCE:**

- A. No person shall park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance.
- B. It shall be unlawful for the driver or person in control of any vehicle being loaded or unloaded, or for the workmen or persons in control of any construction project, or for any other person, to permit or cause any object or objects to protrude or extend into any lane of traffic so as to create a hazard or block the same. (Ord. 75-86; 1968 Code § 6-11-4)

22-11-105: **PARKING IN ALLEYS:**

- A. No person shall park a vehicle within an alley except during the necessary and expeditious loading and unloading of merchandise or freight.
- B. No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property or interfere with the free movement of traffic through the alley. (Ord. 75-86; 1968 Code § 6-11-5)

22-11-106: **MOVING UNATTENDED VEHICLE:**

No person shall move a vehicle not owned by or in charge of such person into any prohibited area or away from a curb such distance as is unlawful. (Ord. 75-86; 1968 Code, § 6-11-6)

22-11-107: CLEARANCE BETWEEN VEHICLES:

No person shall stand or park a vehicle in such a manner as to leave available less than two feet (2') clearance between vehicles when parked except where signs or markings upon the pavement allow less clearance. (Ord. 75-86; 1968 Code § 6-11-7)

22-11-108: WAITING FOR PARKING SPACE

BEING CLEARED: The driver of a vehicle while waiting for a parking space to be cleared by another vehicle which is in the actual process of leaving such parking space, shall stop on the roadway side of and immediately to the rear of such vehicle and shall remain in such position until the parking space has been cleared. (Ord. 75-86; 1968 Code § 6-11-8)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 12 STOPPING, STANDING OR PARKING REGULATIONS¹

SECTION:

22-12-101: Stopping, Standing or Parking in Specified Places

22-12-102: Standing or Parking on One-Way Roadways

22-12-103: Parking for Certain Purposes Prohibited

22-12-104: Stopping, Standing or Parking on Highway

22-12-105: Stopping, Standing or Parking on Private Grounds

22-12-106: Stopping, Standing or Parking in a Fire Lane

22-12-107: Stopping, Standing or Parking in City Parks

22-12-108: All Night Parking-Residential Areas

22-12-101: STOPPING, STANDING OR PARKING IN SPECIFIED PLACES: No

person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control device, in any of the following places:

- A. On a sidewalk or pedestrian walking area;
- B. Within five feet (5') of a public or private driveway;
- C. Within an intersection;
- D. Within five feet (5') of a fire hydrant;
- E. On a crosswalk;
- F. Within twenty feet (20') of a crosswalk at an intersection;
- G. Within thirty feet (30') of the approach to any flashing beacon, stop sign, yield sign or traffic control signal located at the side of the roadway;
- H. Between a safety zone and the adjacent curb, or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs and markings;

- I. Within fifty feet (50') of the nearest rail of a railroad at the intersection of a street and a railroad; (Ord. 75-86; 1968 Code § 6-12-1)
- J. Within ten feet (10') of the nearest rail of a railroad at any location other than an intersection; (1980 Code)
- K. Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy five feet (75') of said entrance when properly signposted;
- L. Alongside or opposite any street or roadway excavation or obstruction when such stopping, standing or parking would obstruct traffic;
- M. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- N. Between the curb and the sidewalk except where expressly provided by Section 22-1-313 of this Chapter and except where expressly permitted under the terms of a revocable permit issued pursuant to Part 2 of Article 2 of Chapter 19 of this Code;
- O. Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;
- P. At any place where official signs prohibit stopping, standing or parking; (Ord. 75-86; 1968 Code § 6-12-1)
- Q. Adjacent to any curb painted yellow, or "Reserved"; (Ord. 77-69; 1968 Code § 6-12-1)
- R. Within a bus stop or taxicab stand. (Ord. 75-86; 1968 Code § 6-12-1)

22-12-102: STANDING OR PARKING ON ONE-WAY ROADWAYS: In the event a

street or highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left hand side of such one-

1. No signs required except as noted in Section 22-12-102 of this Article.

way roadway unless official traffic control devices are erected to permit such standing or parking. (Ord. 75-86; 1968 Code § 6-12-2)

22-12-103: PARKING FOR CERTAIN PURPOSES

PROHIBITED: No person shall park a vehicle upon the roadway for the principal purpose of:

- A. Displaying such vehicle for sale;
- B. Washing, greasing, painting or repairing such vehicle except repairs necessitated by an emergency;
- C. Displaying advertising. (Ord. 77-69; 1968 Code § 6-12-3)

22-12-104: STOPPING, STANDING OR PARKING ON HIGHWAY:

No person shall stop, stand or park a vehicle on any highway ramp or on any other portion of the main travelled way of such highway. (Ord. 77-69; 1968 Code § 6-12-4)

22-12-105: STOPPING, STANDING OR PARKING ON PRIVATE GROUNDS:

No person shall stop, stand or park a vehicle upon the property or premises of another or in the lawful possession of another without the permission of the owner or person in the possession thereof. (Ord. 77-69; 1968 Code § 6-12-5)

22-12-106: STOPPING, STANDING OR PARKING IN A FIRE LANE:

Wherever official traffic control devices are placed designating a section of any parking lot, street, alley, driveway or other area anywhere within this City as a fire lane it shall be unlawful for any person to stop, stand or park a vehicle within such a fire lane.¹ (Ord. 77-69; 1968 Code § 6-12-6)

22-12-107: STOPPING, STANDING OR PARKING IN CITY PARKS:

It shall be unlawful for any person to stop, stand or park a vehicle anywhere within a City park between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M., or during the time any park is closed pursuant to Section 18-2-104 ; and, no person shall

allow, permit or cause a vehicle to remain stopped, standing or parked anywhere within a City park between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M.; except that when a permit is issued pursuant to Section 18-3-101 of this Code, this Section shall not apply.² (Ord. 78-17; 1968 Code § 6-12-7)

22-12-108: ALL NIGHT PARKING - RESIDENTIAL AREAS:

No person shall park any truck on any street in a residential zone use district for a period of time longer than thirty (30) minutes between the hours of eight o'clock (8:00) P.M. and seven o'clock (7:00) A.M. (Ord. 81-216; Ord. 85-263)

1. Fire lanes are established by the Fire Department. See "Access Roads" in most recently adopted edition of Uniform Fire Code, Section 20-2-102 of this Code.

2. See also Section 18-2-104 of this Code.

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 13 STOPPING, STANDING OR PARKING REGULATIONS¹

SECTION:

22-13-101: Regulations Not Exclusive
 22-13-102: Obedience to Stopping, Standing or
 Parking Regulations
 22-13-103: Parking Privilege for the Handicapped
 22-13-104: All Night Parking
 22-13-105: Emergency Stopping or Parking
 22-13-106: Parking Privilege for the Elderly

22-13-101: REGULATIONS NOT EXCLUSIVE:

The provisions of this Article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of a vehicle in specified places, at specified times, or in a specified manner. (Ord. 75-86; 1968 Code § 6-13-1)

22-13-102: OBEDIENCE TO STOPPING, STANDING OR PARKING REGULATIONS:

On any street or at any place within this City where official traffic control devices are posted giving notice of stopping, standing or parking restrictions or prohibitions as authorized in Section 22-1-309 of this Chapter, and described in traffic control records as provided in Section 22-1-312, no person shall stop, stand or park a vehicle in any manner in violation of the provisions contained on such sign or signs, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer, or except for the purpose of loading or unloading passengers when such stopping does not obstruct, impede or endanger any traffic. (Ord. 75-86; 1968 Code § 6-13-2)

22-13-103: PARKING PRIVILEGE FOR THE HANDICAPPED:

A. A vehicle with distinguishing license plates or an identifying placard indicating that the occupant of said vehicle is a "Handicapped Person", as defined in Section 22-1-205 of this

A) Chapter, may be parked along public streets regardless of any time limitation imposed by official signs upon parking in such area; except that such privilege shall not apply to zones in which:

1. Stopping, standing or parking of all vehicles is prohibited at all times;

2. Only special vehicles may be parked; or

3. Parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

B. It is unlawful for any person other than a handicapped person to park in a parking space on public or private property which is clearly identified by an official sign as being reserved for use by the handicapped unless such person is parking the vehicle for the benefit of a handicapped person. A placard or license plate issued to a handicapped person shall be displayed on the vehicle while parked in such space. (Ord. 79-154; 1968 Code § 6-13-3)

22-13-104: ALL NIGHT PARKING:

A. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street signed to prohibit all night parking, for a period of time longer than thirty (30) minutes between the hours of two o'clock (2:00) A.M. and five o'clock (5:00) A.M. of any day. (Ord. 75-86; Ord. 81-216; 1968 Code § 6-13-4)

22-13-105: EMERGENCY STOPPING OR PARKING:

When official signs are erected giving notice thereof, no person shall stop, stand or park a vehicle on the shoulder of any expressway, freeway, controlled access highway or any other facility so marked except in case of emergency involving a vehicle or its occupants. (Ord. 75-86; 1968 Code § 6-13-5)

¹ These regulations shall be declared by official signs.

22-13-106: PARKING PRIVILEGE FOR THE ELDERLY:

- A. A vehicle with an identifying placard indicating that the occupant of said vehicle is an "elderly person", as defined in Section 22-1-205 of this Chapter, may be parked along public streets regardless of any time limitation imposed by official signs upon parking in such areas, and at meter spaces regardless of any time limitation imposed by such meter, so long as the meter does not indicate a violation; except that such privilege shall not apply to zones in which:
 - 1. Stopping, standing or parking of all vehicles is prohibited at all times;
 - 2. Only special vehicles may be parked; or
 - 3. Parking is not allowed during specified periods of the day in order to accommodate heavy traffic.
- B. The identifying placard established herein shall be issued to those persons who make application annually to the City Clerk supported by identifying documents indicating the age of the individual. Such placard shall identify the year in which it expires. (Ord. 79-162; 1968 Code § 6-13-6)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 14 STOPPING FOR LOADING OR UNLOADING ONLY

SECTION:

22-14-101: Standing in Passenger Loading Zone
 22-14-102: Standing in Freight Loading Zone
 22-14-103: Permits for Loading Zones
 22-14-104: Bus Stops
 22-14-105: Taxicab Stands
 22-14-106: Standing in Restricted Parking Zone

22-14-101: **STANDING IN PASSENGER LOADING ZONE:**

No person shall stop, stand or park a vehicle for any purpose for a period of time other than for the expeditious loading or unloading of passengers in any place where official traffic control devices are erected designating a passenger loading zone during hours when the regulations applicable to such loading zone are effective, and then only for a period not to exceed the time limit stated on the official traffic control device. (Ord. 77-69; 1968 Code § 6-14-1)

22-14-102: **STANDING IN FREIGHT LOADING ZONE:**

- A. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious loading and delivery or pickup and loading of materials in any place where official traffic control devices are erected designating a freight loading zone during hours when the provisions applicable to such zones are in effect.
- B. In no case shall the stop for loading and unloading materials exceed the time limit stated on the official traffic control device. (Ord. 77-69; 1968 Code § 6-14-2)

22-14-103: **PERMITS FOR LOADING ZONES:**

Whenever special permits are issued, as authorized in Section 22-1-309, to establish or control the use of loading zones or to allow the backing of a vehicle for the purpose of loading or unloading merchandise or material subject to certain

conditions, no permittee or other person shall violate any of the special terms of any such permit. (Ord. 75-86; 1968 Code § 6-14-3)

22-14-104: BUS STOPS: The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than twelve inches (12") from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic. (Ord. 75-86; 1968 Code § 6-14-4)

22-14-105: **TAXICAB STANDS:**

- A. Except as provided in subsection B of this Section, the operator of a taxicab shall not stand or park such vehicle upon any street within the parking exempt zones, as defined in Section 14-8-102 of the City Code, at any place other than in a taxicab stand so designated as authorized in Section 22-1-309.
- B. The provisions of subsection A of this Section shall not prevent the operator of a taxicab from temporarily stopping in accordance with other parking or stopping regulations at any place engaged in the expeditious loading or unloading of passengers or while waiting at the direction of a passenger for such passenger to transact business and return to the taxicab, nor shall such provisions be applicable to operators of taxicabs who are off-duty and not engaged in the business of transporting passengers for hire. (Ord. 75-86; Ord. 85-63; 1968 Code § 6-14-5)

22-14-106: **STANDING IN RESTRICTED PARKING ZONE:**

No person shall stop, stand or park a vehicle for any purpose or length of time in any restricted parking zone other than for the purpose specified on official signs marking such restricted zone and during the period of time the restriction is effective, except that the driver of a passenger vehicle may stop momentarily therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with the kind of traffic for which the zone is reserved. (Ord. 75-86; 1968 Code, § 6-14-6)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 15 PARKING METER REGULATIONS

SECTION:

- 22-15-101: Installation of Parking Meters
- 22-15-102: Design of Parking Meters
- 22-15-103: Parking Meter Spaces
- 22-15-104: Deposit of Coins or Tokens; Time Limits
- 22-15-105: Tampering With Meter
- 22-15-106: Permits for Extended Use of
Parking Meters
- 22-15-107: Collection of Moneys

22-15-101: INSTALLATION OF PARKING

METERS: Whenever parking meters have been installed on streets or in parking areas regulated by this City, as authorized in Section 22-1-309, the parking of vehicles at places, streets or parts of streets so designated, shall be controlled by parking meters between the hours and on the days declared on authorized parking meter signs or legends. (Ord. 75-86; 1968 Code § 6-15-1)

22-15-102: DESIGN OF PARKING METERS:

Parking meters installed as provided in this Chapter shall be so designed, constructed, installed and set as to meet the following conditions:

- A. Said meters shall be capable of being operated, either automatically or mechanically, upon the deposit therein of one or more coins of United States currency or authorized tokens, for the full period of time for which parking is lawfully permitted in any such parking meter zone or, in lieu thereof, for an appropriate fractional period of time.
- B. Upon the expiration of the time period registered by the deposit of one or more coins or authorized tokens as provided herein, said meters will indicate by an appropriate signal that the lawful parking meter period has expired, and during said period of time and prior to the expiration thereof, will indicate the interval of time which remains of such period.

- C. Each parking meter shall bear thereon an authorized sign or message clearly legible indicating the days and hours when the requirement to deposit coins or tokens therein shall apply, the value of the coins or tokens to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located. (Ord. 75-86; 1968 Code § 6-15-2)

22-15-103: PARKING METER SPACES:

- A. Parking meter spaces shall be of appropriate length and width as determined by an engineering and traffic investigation, and may be designated by appropriate markings upon the curb and/or pavement of the street.
- B. Every vehicle shall be parked wholly within a metered space with the front (or rear in the case of double meters) portion of such vehicle immediately opposite the parking meter for such space.
- C. Except where prohibited by other provisions of this Chapter, a vehicle which is of a size too large to be parked within a single parking meter space, shall be permitted to occupy two (2) adjoining parking meter spaces when coins or tokens shall have been deposited in the parking meter for each space so occupied as is required in this Chapter for the parking of other vehicles in such space.
- D. Two (2) motorcycles shall be allowed to park within one angle parking metered space and three (3) within one parallel parking metered space provided all are within the marked space. Any person parking such motorcycle shall be responsible for any parking violations as provided in this Chapter. (Ord. 75-86; 1968 Code § 6-15-3)

22-15-104: DEPOSIT OF COINS OR TOKENS; TIME LIMITS:

- A. No person shall park a vehicle in any parking space upon a street alongside of and next to which a parking meter has been installed during the restricted and regulated time applicable to the parking meter zone in which such meter is located unless a coin or coins of United States currency or authorized tokens of the appropriate denomination as provided in this Chapter, shall have been deposited therein, or shall have been previously deposited therein for an unexpired interval of time, and said meter has been placed in operation.
- B. No person shall deposit or attempt to deposit in any parking meter any slug, button or any other device or substance as substitutes for coins of United States currency or authorized tokens, and no person shall deposit any lawful coin or authorized token that is bent, cut, torn, battered or otherwise misshapen.
- C. No person shall permit a vehicle within his control to be parked in any such parking meter space during the restricted and regulated time applicable to the parking meter zone in which such meter is located while the parking meter for such space indicates by signal that the lawful parking time in such space is expired. This provision shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin(s) or token(s) in such meter.
- D. No person shall park a vehicle in any such parking meter space for a consecutive period of time longer than that limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located, irrespective of the number or amount of the coins or tokens deposited in such meter.
- E. A vehicle may be parked in a parking meter space without operation of the meter on Sundays, on holidays as defined in this Chapter, and during those hours of the day when the requirement to deposit coins or tokens does not apply as determined from the parking meter sign or legend.
- F. The provisions of this Section shall not relieve any person from the duty to observe other and more restrictive provisions of this Chapter prohibiting or limiting the stopping, standing or parking of vehicles in specified places, at specified times, or in a specified manner. (Ord. 75-86; 1968 Code § 6-15-4)

22-15-105: TAMPERING WITH METER:

- A. No person shall deface, injure, tamper with, open or wilfully break, destroy or impair the usefulness of any parking meter.
- B. No person shall place any sack or covering over, upon or around any parking meter head, remove any parking meter head, or otherwise indicate or show that the said meter is inoperative or inapplicable without proper authority to do so. (Ord. 75-86; 1968 Code § 6-15-5)

22-15-106: PERMITS FOR EXTENDED USE OF PARKING METERS:

The Traffic Engineer or his designated representative is hereby authorized to issue permits for the extended use of parking meters, upon payment of such reasonable fees therefor as he may from time to time establish, to allow the reservation of specified metered parking spaces for the use of specified vehicles engaged in repair work, remodeling or new construction, or the furnishing of tools and equipment therefor in the immediate vicinity of the meter or meters to be reserved. Each such permit shall be placed in a specifically designed hood to be placed over the head of the reserved meter. No permittee or other person shall violate any of the terms of any such permit. (Ord. 75-86; 1968 Code § 6-15-6)

22-15-107: COLLECTION OF MONEYS:

The City Manager or his designated representative shall make or cause to be made regular collections of the moneys deposited in parking meters, the receipts thereof to be credited to the Parking System Fund. (Ord. 75-86; 1968 Code § 6-15-7)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 16 MUNICIPAL PARKING LOTS AND STRUCTURES

SECTION:

- 22-16-101: Off-Street Parking Required
- 22-16-102: Power to Acquire and Regulate
- 22-16-103: Signs Identifying Parking Lots
- 22-16-104: Fees
- 22-16-105: Vehicle Size Limits
- 22-16-106: Handbills Forbidden
- 22-16-107: Loading or Unloading of Vehicles
- 22-16-108: Vendors Prohibited
- 22-16-109: Notification of Claims for Damage or Loss
- 22-16-110: Impounding or Immobilization of Improperly Parked Vehicles
- 22-16-111: Disposition of Revenues

except as herein otherwise provided. (Ord. 75-86; 1968 Code § 6-16-2)

22-16-103: **SIGNS IDENTIFYING PARKING**

LOTS: Signs may be erected at the entrance to each City-owned or City-operated parking lot or structure identifying the same and setting forth the rates for parking therein. (Ord. 75-86; 1968 Code § 6-16-3)

22-16-104: FEES: It shall be unlawful to park any vehicle upon any City parking lot or structure without paying the fee provided and posted therefor. The fee shall be set by the Traffic Engineer. (Ord. 75-86; 1968 Code § 6-16-4)

22-16-101: OFF-STREET PARKING REQUIRED: It is hereby found and declared that excessive street parking of motor vehicles in the City and the lack of adequate off-street parking facilities creates congestion, obstructs the free circulation of traffic, diminishes property values and endangers the health, safety and welfare of the citizens of the City. The provision of proper off-street parking facilities are therefore necessary to alleviate such conditions and to promote the public health, safety and welfare, and the same are found and declared to be a public purpose and in the public interest. (Ord. 75-86; 1968 Code § 6-16-1)

22-16-105: VEHICLE SIZE LIMITS: It shall be unlawful to park any vehicle or truck having an excessive height, length or load capacity upon any City parking lot or structure. The allowable limits shall be set by the Traffic Engineer. (Ord. 75-86; 1968 Code § 6-16-5)

22-16-106: HANDBILLS FORBIDDEN: It shall be unlawful for any person to distribute literature or place handbills in or upon any vehicle while parked in any City parking lot or structure. (Ord. 75-86; 1968 Code § 6-16-6)

22-16-102: POWER TO ACQUIRE AND REGULATE: The City is hereby empowered to construct, condemn and purchase, acquire, lease, add to, maintain, conduct and operate off-street parking facilities for the parking of automobiles and other vehicles, in whole or in part consisting of lots, garages or other structures that may be upon, above, or under the surface, and everything required therefor and accessory thereto, for such terms and upon such conditions as the City Council shall deem necessary and proper for the use and benefit of the public, and the same, when constructed and placed in operation, shall be deemed a public street or highway for all purposes and subject to all laws and ordinances relating to the use of same,

22-16-107: LOADING OR UNLOADING OF VEHICLES: It shall be unlawful to block any public sidewalk by stopping on or across same for the purpose of picking up or discharging passengers and it shall be unlawful for any person to receive or deliver vehicles other than within the property line of the City parking lot or structure or to aid or assist in blocking any sidewalk or street. (Ord. 75-86; 1968 Code § 6-16-7)

22-16-108: **VENDORS PROHIBITED:**

- A. It shall be unlawful for any vendor of goods, wares, merchandise or services to use any

- A) Municipal parking lot or structure or portion thereof for the conduct of the vendor's business, to include the stopping, standing or storage of vehicles which are utilized by the vendor in the conduct of his business or which have been accepted by the vendor for repair or the provision of some similar service.
- B. Nothing contained herein shall be construed to prohibit the conduct of a commercial enterprise in any portion of a parking structure designed and set aside for that express purpose; nor shall it be unlawful for a vendor or his agent or employee to utilize a Municipal parking lot or structure to stop, stand or park a vehicle being used in the conduct of the vendor's business while the vendor, agent or employee is making a pickup or delivery, is making a service call, or is otherwise engaged in the vendor's business at some location other than the vendor's principal place of business, provided that all rules and regulations otherwise applicable to the use of the lot or structure are followed. (Ord. 83-319)

- B) parking lot or structure shall be impounded forthwith and removed from such parking lot or structure, and all costs of towing and impoundment shall be paid by the owner or driver thereof before the same shall be released. (Ord. 75-86; Ord. 83-319; 1968 Code § 6-16-10)

22-16-111: DISPOSITION OF REVENUES: All revenues received under this Article shall be placed in the Parking System Gross Income Fund. (Ord. 75-86; 1968 Code § 6-16-11)

22-16-109: NOTIFICATION OF CLAIMS FOR DAMAGE OR LOSS: The City shall not be liable to any person for the negligent operation of any automobile upon a City-owned parking lot or structure, but shall be liable only for its own negligence or the negligence of its employees in the operation and maintenance of such lot or structure and appurtenances thereto. The City shall not be liable for damages or injury sustained on a City-owned parking lot or structure, unless the injured person or the owner of the property so damaged shall notify the Police Department immediately by the quickest means of communication, stating the time, place, circumstances and extent of damage. (Ord. 75-86; 1968 Code § 6-16-9)

22-16-110: IMPOUNDING OR IMMOBILIZATION OF IMPROPERLY PARKED VEHICLES:

- A. In addition to all other penalties provided in this Code, any automobile parked in violation of any provision of this Article may be immobilized or impounded in accordance with the procedures established in Article 25 of this Chapter.
- B. Any vehicle in excess of the allowable height, length or load capacity found parked in any City

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC
ARTICLE 17 OFFICIAL TRAFFIC CONTROL DEVICES

SECTION:

22-17-101: Uniform Specifications
 22-17-102: Obedience to Official Devices
 22-17-103: Official Devices Required for Enforcement Purposes
 22-17-104: Official Devices, Presumption of Legality
 22-17-105: Traffic Control Signal Legend
 22-17-106: Flashing Signals
 22-17-107: Lane Use Control Signals
 22-17-108: Pedestrian Control Signals
 22-17-109: Inoperative Signs, Devices
 22-17-110: Barricades
 22-17-111: Unauthorized Signs, Signals or Markings
 22-17-112: Interference With Official Devices
 22-17-113: Driving Upon or Across Lines or Warnings Prohibited

22-17-101: UNIFORM SPECIFICATIONS:

- A. Except as otherwise provided in this Chapter, all signs, markings and signals required hereunder for a particular purpose shall so far as practicable, be uniform as to type and location throughout the City as required by the Manual on Uniform Traffic Control Devices and State law. (Ord. 79-32; 1968 Code § 6-17-1)
- B. All traffic control devices so erected and not inconsistent with the provisions of State law or this Chapter, shall be official traffic control devices. (Ord. 75-86; 1968 Code § 6-17-1)

22-17-102: OBEDIENCE TO OFFICIAL DEVICES:

No driver of a vehicle shall disobey the instructions of any official traffic control device, including any official hand signal device placed or displayed in accordance with the provisions of this Article, unless otherwise directed by a police officer or other authorized person, subject to the exceptions in this Chapter granted the driver of an authorized emergency vehicle. (Ord. 75-86; 1968 Code § 6-17-2)

22-17-103: OFFICIAL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES:

- A. No provision of this Chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
- B. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place. (Ord. 75-86; 1968 Code § 6-17-3)

22-17-104: OFFICIAL DEVICES, PRESUMPTION OF LEGALITY:

- A. Whenever official traffic control devices are placed in position approximately conforming to the requirements of this Chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.
- B. Any official traffic control device placed pursuant to the provisions of this Chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this Chapter, unless the contrary shall be established by competent evidence. (Ord. 75-86; 1968 Code § 6-17-4)

22-17-105: TRAFFIC CONTROL SIGNAL LEGEND: Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored arrows successively one at a time or in combination, only the colors green, yellow and red shall be used, except for special pedestrian control

signals carrying a word legend as provided in Section 22-17-108. Said lights, arrows and combinations thereof shall indicate and apply to drivers of vehicles and pedestrians as follows:

A. Green Indication.

1. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

3. Unless otherwise directed by a pedestrian control signal as provided in Section 22-17-108 of this Chapter, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

B. Steady Yellow Indication.

1. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated, or that a red indication will be exhibited immediately thereafter.

2. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in Section 22-17-108 of this Chapter, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

C. Steady Red Indication.

1. Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop

C,1) line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown; except that:

a. Such vehicular traffic, after coming to a stop and yielding the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection, may make a right turn unless an official sign has been erected prohibiting such right turn as provided in Section 22-1-309 of this Chapter.

b. Such vehicular traffic, when proceeding on a one-way street, and after coming to a stop, may make a left turn onto a one-way street upon which traffic is moving to the left of the driver. Such turn shall be made only after yielding the right of way to pedestrians and other traffic proceeding as directed. No turn shall be made pursuant to this subparagraph at an intersection where an official sign has been erected prohibiting such left turn as provided in Section 22-1-309 of this Chapter. (Ord. 77-69; 1968 Code § 6-17-5)

2. Pedestrians facing a steady circular red signal alone shall not enter the roadway, unless otherwise directed by a pedestrian control signal as provided in Section 22-17-108 of this Chapter.

3. Vehicular traffic facing a steady red arrow signal may not enter the intersection to make the movement indicated by such arrow and, unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line but if none, before entering the crosswalk on the near side of the intersection or if none, then before entering the intersection and shall remain standing until an indication to make the movement indicated by such arrow is shown.

4. Pedestrians facing a steady red arrow signal shall not enter the roadway, unless otherwise directed by a pedestrian control signal as provided in Section 22-17-108 of this Chapter.

D. Nonintersection Signal.

1. In the event an official traffic control signal is erected and maintained at a place other than an

D,1) intersection, the provisions of this Section shall be applicable except as to those provisions which by their nature can have no application.

2. Any stop required at a nonintersection signal shall be made at a sign or pavement marking indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be in advance of the crosswalk or crossing area. (Ord. 75-86; 1968 Code § 6-17-5)

22-17-106: FLASHING SIGNALS:

A. Whenever an illuminated flashing red or yellow signal is used in conjunction with the traffic sign or traffic signal or as a traffic beacon, it shall require obedience by vehicular traffic as follows:

1. When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed past such signal and through the intersection or other hazardous location only with caution.

B. This Section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad crossings shall be governed by provisions of Section 22-4-102 through 22-4-104 of this Chapter. (Ord. 75-86; 1968 Code § 6-17-6)

22-17-107: LANE USE CONTROL SIGNALS:

Whenever lane use control signals are placed over the individual lanes of a street or highway, such signals shall indicate and apply to drivers of vehicles as follows:

A. Downward - Pointing Green Arrow (Steady). A driver facing such signal may drive in any lane over which said green arrow signal is located.

B. Yellow "X" (Steady). A driver facing such signal is warned that the related green arrow movement is being terminated and shall vacate in a safe manner the lane over which said steady yellow signal is located to avoid, if possible, occupying that lane when the steady red "X" signal is exhibited.

C. Yellow "X" (Flashing). A driver facing such signal may use the lane over which said flashing yellow signal is located for the purpose of making a left turn or a passing maneuver, using proper caution, but for no other purpose.

D. Red "X" (Steady). A driver facing such signal shall not drive in or to the left of any lane over which said red signal is exhibited. (Ord. 75-86; 1968 Code § 6-17-7)

22-17-108: PEDESTRIAN CONTROL SIGNALS:

Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk", or similar international symbols, are in place, such signals shall indicate as follows:

A. "Walk" (Steady). While the "Walk" indication is steadily illuminated, pedestrians facing such signal may proceed across the roadway in the direction of the signal indication.

B. "Walk" (Flashing). Whenever the "Walk" indication is flashing, pedestrians facing such signal are cautioned that there is possible hazard from turning vehicles, but such pedestrians may proceed across the roadway in the direction of the signal indication and shall be given the right of way by the drivers of all vehicles.

C. "Don't Walk" (Steady). While the "Don't Walk" indication is steadily illuminated, no pedestrian shall enter the roadway in the direction of the signal indication.

D. "Don't Walk" (Flashing). Whenever the "Don't Walk" indication is flashing, no pedestrian shall start to cross the roadway in the direction of the indication, but any pedestrian who has partly completed his crossing during the "Walk" indication, shall proceed to a sidewalk or to a safety island, and all drivers of vehicles shall yield to any such pedestrian.

E. Whenever a signal system provides for the stopping of all vehicular traffic and the

- E) exclusive movement of pedestrians, and "Walk" and "Don't Walk" signal indications control such pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection while the "Walk" indication is exhibited, if signals or other official devices direct pedestrian movement in such manner consistent with Section 22-18-105D of this Chapter. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-17-8)

22-17-109: INOPERATIVE SIGNS, DEVICES:

- A. Whenever a driver approaches an intersection and faces a traffic control signal which is inoperative or which remains on steady red or steady yellow during several time cycles, the driver shall treat such signal as a "Stop" sign and the rules provided in Section 22-3-101 of this Chapter shall apply until a police officer assumes control of traffic or until normal operation is resumed.
- B. In the event that any traffic control signal at a place other than an intersection should cease to operate or should malfunction as herein set forth, drivers may proceed through the inoperative or malfunctioning signal only with caution, as if the signal were one of flashing yellow.
- C. Whenever a pedestrian faces a pedestrian control signal, as provided in Section 22-17-108, which is inoperative or which remains on "Don't Walk" or "Walk" during several time cycles, such pedestrian shall not enter the roadway unless he can do so safely and without interfering with any vehicular traffic. (Ord. 75-86; 1968 Code § 6-17-9)

22-17-110: BARRICADES: Wherever barricades are erected to close off a part of or all of a street or highway, as authorized in Section 22-1-309 of this Chapter, no person shall drive around, through or between such barricades or into the barricaded area, except as directed or permitted by official signs or in compliance with the directions of a police officer or other authorized person. (Ord. 75-86; 1968 Code § 6-17-11)

22-17-111: UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS:

- A. No person shall place, maintain or display upon or in view of any street or highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or railroad sign or signal.
- B. No person shall place or maintain, nor shall any public authority permit upon any street or highway any traffic sign or signal bearing thereon any commercial advertising.
- C. This Section shall not be deemed to prohibit the use of motorists' services information of a general nature on official highway guide signs, if such signs do not indicate the brand, trademark or name of any private business or commercial enterprise offering the service, nor shall this Section be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- D. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the Traffic Engineer is hereby empowered to remove the same or cause it to be removed without notice. (Ord. 75-86; 1968 Code § 6-17-12)

22-17-112: INTERFERENCE WITH OFFICIAL DEVICES:

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device, any railroad sign or signal, or any inscription, shield or insignia thereon, or any other part thereof. (1968 Code, § 6-17-13)

22-17-113: DRIVING UPON OR ACROSS LINES OR WARNINGS PROHIBITED:

When any line, marking or message on any pavement is covered or marked by barricades, traffic cones, flags,

blocks, or where official signs are visible, or other warning or obstruction devices, it shall be unlawful for any person to drive a motor vehicle upon or across such line, marking or message. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-17-14)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 18 PEDESTRIANS' RIGHTS AND DUTIES, DRIVERS TO EXERCISE DUE CARE

SECTION:

22-18-101: Obey Traffic Control Devices
 22-18-102: Right of Way in Crosswalks
 22-18-103: Crossings and Crosswalk Restrictions
 22-18-104: Use Right Half of Crosswalks
 22-18-105: Crossing and Yielding at Other Than Crosswalks
 22-18-106: Obedience to Railroad Signals
 22-18-107: Pedestrians on Highways
 22-18-108: Driving Through Safety Zone Prohibited
 22-18-109: Driving On Sidewalk
 22-18-110: Play Streets
 22-18-111: Drivers to Exercise Due Care
 22-18-112: Playing Ball and Sports in Streets; Sitting on Parked Vehicles
 22-18-113: Obstruction or Interference with Traffic

- A) pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- B. Subsection A shall not apply under the conditions stated in Section 22-18-105 of this Chapter.
- C. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. 75-86; 1968 Code § 6-18-2)

22-18-101: OBEY TRAFFIC CONTROL DEVICES:

- A. A pedestrian shall obey the instructions of any official traffic control device specifically applicable to him, unless otherwise directed by a police officer.
- B. Pedestrians shall be subject to traffic and pedestrian control signals as provided in Sections 22-17-105, 22-17-108 and 22-17-109 of this Chapter.
- C. At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this Article. (Ord. 75-86; 1968 Code § 6-18-1)

22-18-103: CROSSINGS AND CROSSWALK RESTRICTIONS: No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk or except where angle crossing is authorized as provided in Section 22-18-105D of this Chapter. (Ord. 75-86; 1968 Code § 6-17-3)

22-18-104: USE RIGHT HALF OF CROSSWALKS: Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (Ord. 75-86; 1968 Code § 6-18-4)

22-18-102: RIGHT OF WAY IN CROSSWALKS:

- A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the

22-18-105: CROSSING AND YIELDING AT OTHER THAN CROSSWALKS:

- A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

- B. Any pedestrian crossing the roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided, shall yield the right of way to all vehicles upon the roadway.
- C. Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
- D. No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements. (Ord. 75-86; 1968 Code § 6-18-5)

22-18-106: OBEDIENCE TO RAILROAD SIGNALS: No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is being opened or closed. 75-86; 1968 Code § 6-18-5)

22-18-107: PEDESTRIANS ON HIGHWAYS:

- A. Pedestrians walking along streets and highways where sidewalks are not provided shall walk on the left side of highways facing approaching traffic, except when soliciting a ride.
- B. No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle. For the purposes of this subsection, "roadway" means that portion of the road normally used by moving motor vehicle traffic.
- C. It is unlawful for any person who is under the influence of intoxicating liquors or any narcotic or stupefying drug to walk or be upon that portion of any highway normally used by moving motor vehicle traffic.
- D. This Section applying to pedestrians shall also be applicable to riders of animals.
- E. No person shall stand or walk in or upon a roadway or adjacent parkway for the purpose of soliciting a ride from the driver of any vehicle wherever official signs or devices prohibiting pedestrians or hitchhiking are erected and in place.

- F. Pedestrians shall only be picked up where there is adequate road space for vehicles to pull off and not endanger or impede the flow of traffic.
- G. Pedestrians shall not stand or walk in or upon a street or roadway wherever official signs are erected giving notice pedestrians are excluded as authorized in Section 22-1-309. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-18-7)

22-18-108: DRIVING THROUGH SAFETY ZONE PROHIBITED:

- A. No vehicle shall at any time be driven through or within a pedestrian safety zone.
- B. No vehicle shall at any time be driven through or within a school crosswalk when a school crosswalk guard indicates such prohibition. (Ord. 75-86; Ord. 85-186; 1968 Code § 6-18-9)

22-18-109: DRIVING ON SIDEWALK: The driver of a vehicle shall not drive within any sidewalk area or bicycle path of this City except at a permanent or temporary driveway. (Ord. 75-86; 1968 Code §6-18-9)

22-18-110: PLAY STREETS: Whenever official signs are erected indicating any street or part thereof within the City as a play street, as authorized in Section 22-1-309 of this Chapter, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof. (Ord. 75-86; 1968 Code § 6-18-10)

22-18-111: DRIVERS TO EXERCISE DUE CARE:

Notwithstanding the provisions of this Article or other articles of this Chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

Any pedestrian who is not wholly or partially blind and any driver of a vehicle who approaches or comes in contact with a person who is wholly or partly blind carrying a cane or walking stick, white or metallic in

color, or white tipped with red or who is accompanied by a guide dog, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid an accident or injury to the person wholly or partially blind. (75-86; 1968 Code § 6-18-11)

22-18-112: PLAYING BALL AND SPORTS IN STREETS; SITTING ON PARKED VEHICLES:

- A. No person shall play ball, fly kites or engage in other similar activities upon any street or roadway not designated a play street in accordance with Section 22-1-309 of this Chapter.
- B. No person shall sit upon, or otherwise attach himself to the outside, top, hood or fenders of any vehicle, or to any other portion thereof, other than the specific portion of such vehicle intended for passengers, while such vehicle is stopped, standing or parked upon any public way. (Ord. 75-86; 1968 Code § 6-18-12)

22-18-113: OBSTRUCTION OR INTERFERENCE WITH TRAFFIC: It shall be unlawful for any person or persons to:

- A. Occupy, linger, delay, remain, abide or tarry on any street or highway in this City when such conduct obstructs or interferes with the movement of traffic on such street or highway; or
- B. Solicit for contributions or donations or distribute any handbill, bill, notice, announcement or advertisement on any street or highway when such conduct obstructs or interferes with the movement of traffic on such street or highway. (Ord. 79-247; 1968 Code § 6-18-13)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 19 OPERATION OF BICYCLES

SECTION:

- 22-19-101: Effect of Regulations
- 22-19-102: License Required
- 22-19-103: Application for License
- 22-19-104: Issuance of License
- 22-19-105: Attachment of License Plate
- 22-19-106: Inspection of Bicycles
- 22-19-107: Transfer of Ownership
- 22-19-108: Rental Agencies
- 22-19-109: Bicycle Dealers
- 22-19-110: Traffic Laws Apply to Bicycle Riders
- 22-19-111: Obedience to Traffic Control Devices
- 22-19-112: Riding on Bicycles
- 22-19-113: Riding on Roadways and Bicycle Paths
- 22-19-114: Speed
- 22-19-115: Entering or Emerging From Alley or Driveway
- 22-19-116: Carrying Articles
- 22-19-117: Parking
- 22-19-118: Riding on Sidewalks
- 22-19-119: Equipment on Bicycles
- 22-19-120: Clinging to Vehicles
- 22-19-121: Bicycles Excluded
- 22-19-122: Impounding Bicycles
- 22-19-123: Release of Impounded Bicycles
- 22-19-124: Notice to Owner of Impounded Bicycle
- 22-19-125: Sale of Unclaimed Bicycles
- 22-19-126: Suspension or Revocation of License
- 22-19-127: Rules and Regulations

22-19-101: EFFECT OF REGULATIONS:

- A. It is unlawful for any person to do any act forbidden or fail to perform any act required in this Article.
- B. The parent of any child or guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of this Article.
- C. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or highway within this City or upon any path or trail therein set aside for the exclusive

- C) use of bicycles, subject to those exceptions stated herein. (Ord. 75-86; 1968 Code § 6-19-1)

22-19-102: LICENSE REQUIRED: No person shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles, unless such bicycle has been licensed and a license plate is attached thereto as provided herein. A valid license issued by another government entity shall be deemed to meet the requirements of this Article. (Ord. 75-86; 1968 Code, § 6-19-2)

22-19-103: APPLICATION FOR LICENSE:

Application for a bicycle license shall be made upon a form provided by the City Clerk and shall be made to the City Clerk or other authorized official. A license fee as prescribed by the City Council shall be paid to the City before each license is granted. (Ord. 75-86; 1968 Code § 6-19-3)

22-19-104: ISSUANCE OF LICENSE:

- A. The City Clerk or other authorized official, upon receiving proper application therefor, is authorized to issue a bicycle license.
- B. The City Clerk or other authorized official shall not issue a license for any bicycle when he knows or has reasonable grounds to believe that the applicant is not the owner of or entitled to the possession of such bicycle.
- C. The City Clerk or other authorized official shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected by him. (Ord. 75-86; 1968 Code § 6-19-4)

22-19-105: ATTACHMENT OF LICENSE PLATE:

- A. The City Clerk or other authorized official, upon issuing a bicycle license, shall also issue a

- A) license plate bearing the license number assigned to the bicycle and the name of the City.
- B. Such license plate shall be firmly attached to the rear mudguard or frame of the bicycle for which issued in such position as to be plainly visible from the rear.
- C. No person shall remove a license plate from a bicycle during the period for which issued, except upon the transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any street or bicycle path in this City. (Ord. 75-86; 1968 Code § 6-19-5)

22-19-106: INSPECTION OF BICYCLES: The City Clerk or other authorized official shall inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines is in an unsafe mechanical condition or fails to meet the requirements of Section 22-19-119 of this Chapter. (Ord. 75-86; 1968 Code § 6-19-6)

22-19-107: TRANSFER OF OWNERSHIP: Upon the sale or other transfer of a licensed bicycle, the licensee shall remove the license plate and shall either surrender the same to the City Clerk or other authorized official or may, upon proper application but without payment of additional fee, have said plate assigned to another bicycle owned by the applicant. (Ord. 75-86; 1968 Code § 6-19-7)

22-19-108: RENTAL AGENCIES: A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed and the license plate is attached thereto as provided herein, and such bicycle is equipped with the lamps and other equipment required in this Article. (Ord. 75-86; 1968 Code § 6-19-8)

22-19-109: BICYCLE DEALERS: Every person engaged in the business of buying or selling new or secondhand bicycles shall make a report to the City Clerk of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof, and the number of the license plate, if any, found thereon. (Ord. 75-86; 1968 Code § 6-19-9)

22-19-110: TRAFFIC LAWS APPLY TO BICYCLE

RIDERS: Every person riding a bicycle upon a roadway where bicycle travel is permitted, shall be granted all of the rights and shall be subject to all of the duties and penalties applicable to the driver of a vehicle as set forth in this Chapter, except those provisions of this Chapter which, by their very nature, can have no application. Said bicycle rider shall also comply with special rules set forth in this Article. Whenever the word "vehicle" is used in any of the driving rules set forth in this Chapter that are applicable to bicycle riders, such term shall include bicycles. (Ord. 75-86; 1968 Code § 6-19-10)

22-19-111: OBEDIENCE TO TRAFFIC CONTROL DEVICES:

- A. Any person operating a bicycle shall obey the instructions of official traffic control devices applicable to vehicles, unless otherwise directed by a police officer.
- B. Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except when such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. (Ord. 75-86; 1968 Code § 6-19-11)

22-19-112: RIDING ON BICYCLES:

- A. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.
- B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (Ord. 75-86; 1968 Code § 6-19-12)

22-19-113: RIDING ON ROADWAYS AND BICYCLE PATHS:

- A. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising care when passing a standing vehicle or one proceeding in the same direction.
- B. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on

- B) paths or parts of roadways set aside for the exclusive use of bicycles.
- C. Where a usable path or trail for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (Ord. 75-86; 1968 Code § 6-19-13)

22-19-114: **SPEED:** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (Ord. 75-86; 1968 Code § 6-19-14)

22-19-115: **ENTERING OR EMERGING FROM ALLEY OR DRIVEWAY:** The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles on said roadway as may be necessary to avoid collision. (Ord. 75-86; 1968 Code § 6-19-15)

22-19-116: **CARRYING ARTICLES:** No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars. (Ord. 75-86; 1968 Code § 6-19-16)

22-19-117: **PARKING:**

- A. No person shall stand or park a bicycle upon any street other than upon the roadway against the curb, or upon the sidewalk in a rack to support the bicycle, against a building, or at the curb.
- B. Every bicycle shall be parked in such a manner as to afford the least obstruction to pedestrian traffic. (Ord. 75-86; 1968 Code § 6-19-17)

22-19-118: **RIDING ON SIDEWALKS:**

- A. When signs are erected giving notice thereof, no person shall operate a bicycle, skateboard, rollerskates, or similar device upon a sidewalk.
- B. Whenever any person is operating a bicycle, skateboard, rollerskates, or similar device upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

- C. It shall be unlawful for any person to operate a bicycle, skateboard, rollerskates, or similar device on any sidewalk:

1. Either bordering on or included within the area bordered on the north by Boulder Street, on the south by Vermijo Avenue, on the east by Weber Street and on the west by Cascade Avenue, excepting that portion of Acacia Park designated by the Director of Park and Recreation for wheeled device use, such area to be the concrete patio immediately north and adjacent to the park bandshell. This patio area shall be available for wheeled devices as described above at times so directed and posted by the Director of Park and Recreation, unless such area is reserved through the park permitting process for other suitable use.¹

2. Either bordering on or included within Colorado Avenue bordered on the east by 24th Street and on the west by 27th Street.

- D. Signage as provided in subsection A hereof shall not be required in the areas defined in subsection C hereof. (Ord. 75-86; Ord. 83-228; Ord. 86-103; 1968 Code § 6-19-18)

22-19-119: **EQUIPMENT ON BICYCLES:**

- A. Every bicycle in use on a street or highway between sunset and sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons in vehicles on the street or highway are not clearly discernible at a distance of five hundred feet (500') ahead, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet (500') to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet (500') to the rear may be used in addition to the red reflector.
- B. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet (100'), except that a bicycle shall not be equipped with, nor shall any person use upon a bicycle, any siren or whistle.
- C. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (Ord. 75-86; 1968 Code § 6-19-19)

1. See City Code Section 18-2-101 et seq.

22-19-120: CLINGING TO VEHICLES: No person riding upon any bicycle shall attach the same or himself to any vehicle upon any street or roadway. (Ord. 75-86; 1968 Code § 6-29-20)

22-19-121: BICYCLES EXCLUDED: Wherever of-ficial signs are erected giving notice that bicycles are excluded, as authorized in Section 22-1-309 of this Chapter, no bicycle rider shall violate any of the instructions contained thereon. (Ord. 75-86; 1968 Code § 6-19-21)

22-19-122: IMPOUNDING BICYCLES: Members of the Police Department are hereby authorized to remove a bicycle from any street, alley, highway, sidewalk, bridge, viaduct, tunnel, path or other public place or way, to the bicycle pound or to any lot or place maintained by the City or said Department for the storage of impounded bicycles, or to any other place of safety under any of the circumstances hereinafter enumerated:

- A. When such bicycle is not licensed according to the provisions of this Chapter, or when the license plate is not attached to the frame of such bicycle as required by Section 22-19-105 of this Chapter.
- B. When such bicycle is not in safe mechanical condition.
- C. When such bicycle is not equipped as required by Section 22-19-119 of this Chapter.
- D. When such bicycle is operated by any person under the age of sixteen (16) years in violation of any ordinance of the City relating to traffic or in violation of any of the provisions of this Chapter. (Ord. 75-86; 1968 Code § 6-19-22)

22-19-123: RELEASE OF IMPOUNDED BICYCLES:

- A. No bicycle so removed or impounded because not licensed or because the license plate is not attached to the frame thereof shall be released until such bicycle is licensed in accordance with the provisions of this Chapter and the required license plate is firmly attached to the frame thereof in such position as to be plainly visible from the rear, and such bicycle shall be released to the owner or person entitled to the possession thereof when the same is licensed and the license plate is so attached.

- B. No bicycle so removed or impounded because not in safe mechanical condition or because not equipped as required by Sections 22-19-106 and 22-19-119 of this Chapter shall be released until:

1. Such unsafe mechanical condition has been corrected or such lacking equipment has been placed on such bicycle; or

2. The City Clerk or his duly authorized agent has been satisfied that such bicycle will not be ridden, propelled or operated upon any street, alley, highway, sidewalk, bridge, viaduct, tunnel, path or other public place or way until such unsafe mechanical condition has been corrected or such lacking equipment has been placed on such bicycle, and such bicycle shall be released to the owner or person entitled to the possession thereof when the same is in safe mechanical condition and when such lacking equipment has been placed thereon or when the City Clerk or his duly authorized agent has been so satisfied.

- C. No bicycle so removed or impounded because operated by any person under the age of sixteen (16) years in alleged violation of any ordinance of the City relating to traffic or in alleged violation of any of the provisions of this Chapter shall be released until the City Clerk shall have had a reasonable period of time in which to investigate or cause to be investigated the facts relative to such alleged violation. If at the conclusion of such investigation the City Clerk finds such alleged violation to have occurred he may order such bicycle to be retained or further impounded for such further period not exceeding thirty (30) days as in his discretion shall seem proper, and at the expiration of such period or upon the conclusion of such investigation if said Clerk shall determine that such alleged violation did not occur, such bicycle shall be released to the owner or person entitled to the possession thereof. (Ord. 75-86; 1968 Code § 6-19-23)

22-19-124: NOTICE TO OWNER OF IMPOUNDED BICYCLE: Whenever a bicycle is removed from any public place or way or impounded as authorized by this Chapter and the identity of the owner or person entitled to the possession thereof is known, such owner or person shall be given notice in writing of the fact of such removal or impounding, the reasons therefor, and the place to which the bicycle has been removed or in which it is impounded. (Ord. 75-86; 1968 Code § 6-19-24)

22-19-125: SALE OF UNCLAIMED BICYCLES:

Whenever a bicycle shall have been impounded for a period of two (2) months and no claim of ownership or the right to the possession thereof shall have been made and established to the satisfaction of the City Clerk, such bicycle shall be considered as lost, unclaimed or stolen goods or property, and shall be subject to sale pursuant to the terms of Section 22-25-106 of this Chapter. (Ord. 75-86; 1968 Code § 6-19-25)

22-19-126: SUSPENSION OR REVOCATION OF LICENSES:

Any bicycle ridden or operated in violation of any of the provisions of this Chapter or of any applicable ordinance of the City of Colorado Springs relating to traffic, shall be deemed and considered an offending instrumentality employed to accomplish a violation of law, and the City Clerk may revoke the license of or for such bicycle or suspend the same for such period of time as in his discretion he shall deem proper. (Ord. 75-86; 1968 Code § 6-19-26)

22-19-127: RULES AND REGULATIONS:

The City Clerk is hereby authorized to adopt rules and regulations governing the procedure to be followed in the removal and impounding of bicycles pursuant to the provisions of this Chapter, and the revocation or suspension of license for bicycles, and such rules shall include provisions affording the owner or person entitled to the possession of any bicycle so removed or impounded a reasonable opportunity to be heard concerning the existence of cause for such removal and impounding and the period for or during which such bicycle should be impounded and concerning the revocation or suspension of the license of any bicycle pursuant to Section 22-19-126 of this Chapter. (Ord. 75-86; 1968 Code § 6-19-27)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 20 REGULATING THE KINDS AND CLASSES OF TRAFFIC

SECTION:

- 22-20-101: Excluded, Restricted, Prohibited Use of Streets
- 22-20-102: Size and Weight Restrictions; Applicability
- 22-20-103: Projecting Loads on Vehicles
- 22-20-104: Spilling Loads on Streets or Highways
- 22-20-105: Trailers and Towed Vehicles
- 22-20-106: Weight Limits on Certain Streets or Parts Thereof (Rep. by Ord. 85-263)
- 22-20-107: Vehicles Weighed, Excess Removed
- 22-20-108: Permits for Excess Size and Weight
- 22-20-109: Liability for Damage to Street or Structure

22-20-101: EXCLUDED, RESTRICTED, PROHIBITED USE OF STREETS:

- A. The use of certain streets and roadways by pedestrians, motor driven cycles, bicycles and horse-drawn vehicles or other nonmotorized traffic, shall be excluded when official signs giving notice thereof are erected as authorized in Section 22-1-309 and 22-19-121 of this Chapter. The use of certain street and roadways by vehicles or loads of certain weight or size shall be restricted when official signs giving notice thereof are erected as authorized in Section 22-1-309. The use of certain streets and roadways by trucks other than those streets and roadways officially designated as truck routes shall be prohibited as authorized in Section 22-21-102.
- B. For the purpose of road construction and maintenance, any street or portion thereof may, by action of this City or by agreement with other concerned road agencies, be temporarily closed to thru traffic or to all vehicular traffic during the work project, and the traffic affected shall be guided along appropriate detours or alternative routes by official traffic control devices.
- C. When signs are so erected giving notice of exclusions or restrictions upon the use of streets no person shall disobey the directions or instructions stated on such signs.

- D. The provisions of subsection A shall not be construed to prohibit the drivers of any prohibited vehicles from travelling over such prohibited streets, other than controlled access roadways, for the purpose of delivering or picking up materials or merchandise or reaching their destinations which occur on these particular streets, provided such prohibited vehicles enter such streets at the intersection nearest the destination of the vehicle and proceed thereon no farther than the nearest intersection thereafter. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-20-1)

22-20-102: SIZE AND WEIGHT RESTRICTIONS; APPLICABILITY:

- A. It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street or highway within this City any vehicle or vehicles of a size, weight and load exceeding the limitations described in this Article and in C.R.S. 1973 §§ 42-4-401 through 42-4-411.
- B. The provisions of this Article governing size, weight and load shall not apply to authorized emergency vehicles, public transportation vehicles operated by municipalities or other political subdivisions of the State or road construction equipment . operated by municipalities or other political subdivisions of the State temporarily moved upon the street or roadway, or to implements of husbandry temporarily moved upon a highway, or to a vehicle under the terms of a special permit issued as provided in this Section. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-20-2)

22-20-103: PROJECTING LOADS ON VEHICLES:

- A. No passenger type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle, nor extending more than six inches (6") beyond the line of the fenders on the right side thereof.
- B. The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of

- B) vehicles, shall not extend beyond the front wheels of such vehicles or vehicle, or the headlamp lenses of such vehicle; provided, that a load may project not more than four feet (4') beyond the front headlamp lenses of such a vehicle at a point above the cab of the driver's compartment so long as that part of any load projecting ahead of the rear of the cab or the driver's compartment shall be so loaded as not to obscure the vision of the driver to the front or to either side, except as otherwise provided in Section 22-20-102 of this Chapter.
- C. It shall be unlawful for any person to operate a vehicle to which is attached in any manner any chain, rope, wire or other equipment which drags, swings or projects in any manner so as to endanger the person or property of another. (Ord. 75-86; 1968 Code § 6-20-3)

22-20-104: SPILLING LOADS ON STREETS OR HIGHWAYS: No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded or the load thereon securely covered to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such a roadway. (Ord. 75-86; 1968 Code § 6-20-4)

22-20-105: TRAILERS AND TOWED VEHICLES:

- A. When one vehicle is towing another, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and said drawbar or other connection shall not exceed fifteen feet (15') from one vehicle to the other, except the connection between any two (2) vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.
- B. When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches (12") square.
- C. Whenever one vehicle is towing another, in

- C) addition to the drawbar or other connection, except a fifth wheel connection meeting the requirements of the Interstate Commerce Commission, safety chains or cables arranged in such a way that it will be impossible for the vehicle being towed to break loose from the vehicle towing in the event the drawbar or other connection were to be broken, loosened or otherwise damaged shall be used. This shall apply to all motor vehicles, all trailers, except semi-trailers connected by a proper fifth wheel, and to any dolly used to convert a semi-trailer to a full trailer. (Ord. 75-86; 1968 Code § 6-20-5)

22-20-106: WEIGHT LIMITS ON CERTAIN STREETS OR PARKS THEREOF:
(Rep. by Ord. 85-263)

22-20-107: VEHICLES WEIGHED, EXCESS REMOVED:

- A. Any police officer having reason to believe that the weight of a vehicle and load is unlawful, is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and shall require that such vehicles be driven to the nearest public scales in the event such scales are within five (5) miles.
- B. Whenever an officer upon weighing a vehicle and load as above provided determines that the weight is unlawful, such officer shall require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this Article.
- C. It shall be unlawful for any driver of a vehicle when directed by a police officer to fail or refuse to stop and submit the vehicle and load to a weighing, or to fail or refuse when directed by an officer to allow the unloading of the vehicle to the gross weight of such vehicle permitted in this Article, or otherwise to fail or refuse to comply with the provisions of this Section. (Ord. 75-86; 1968 Code § 6-20-7)

22-20-108: PERMITS FOR EXCESS SIZE AND WEIGHT:

- A. Upon receiving application in writing and good cause being shown therefor, the Traffic Engineer may, in his discretion, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this Article or otherwise not in conformity with the provisions of this Article; provided, that no permit issued shall allow a total gross weight in excess of that permitted by the formula prescribed in C.R.S. 1973 § 42-4-407(1)(b).
- B. The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular streets or highways for which the permit to operate is requested, and whether such permit is for a single trip or for continuous operation and the time of such movement.
- C. In granting such permit, the City Traffic Engineer may limit the number of trips or establish seasonal or other time limitations within which the vehicles described may be operated on the streets and highways indicated, or otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any damage to any roadway or road structure.
- D. Permits issued by the Colorado Department of Highways authorizing the movement of vehicles under this Section on any of the connecting links of the State highway system within the City, shall be construed to have the joint approval of the City Traffic Engineer.
- E. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit. (Ord. 75-86; 1968 Code § 6-20-8)

22-20-109: LIABILITY FOR DAMAGE TO STREET OR STRUCTURE:

- A. Any person driving, operating or moving any vehicle, object or contrivance upon any street or highway or upon or under any street or highway structure, shall be liable for all damage which said highway or highway structure, including any street or highway fixture, official traffic control device, or bridge sign within or suspended over the public right of way, may sustain as a result of any illegal operation, driving or moving of such vehicle, object or contrivance, or a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight or size allowable in this Article but authorized by special permit issued as provided in this Article.
- B. Whenever such driver is not the owner of such vehicle, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage.
- C. Such damage may be recovered in a civil action brought by the authorities in control of such street or highway, or such street or highway structure or fixture. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-20-9)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 21 TRUCK ROUTES

SECTION:

22-21-101: Definitions
 22-21-102: Scope and Effect
 22-21-103: Truck Route Committee
 22-21-104: Operation of Trucks

22-21-101: DEFINITIONS:¹

DESIGNATED TRUCK ROUTE: A street or roadway designated by the Traffic Engineer from which thru travel by trucks is permitted.

IMMEDIATE AREA OF OPERATION: A location where picking up or delivery of a load occurs.

PROHIBITED ROUTE: A street or roadway that is not a designated truck route.

RESTRICTED ROUTE: A street or roadway from which travel is limited to vehicles or loads of certain weight or size. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-21-1)

22-21-102: SCOPE AND EFFECT:

A. The Traffic Engineer, upon the recommendation of the Truck Route Committee, shall have the authority to designate those streets, highways, public ways, roadways, or portions thereof upon which trucks shall operate. He shall in addition have the authority to restrict the operations thereof. Such designation and restrictions shall be based upon traffic engineering investigations and studies, environmental considerations, economic factors affecting trucking and the trucking industry, desires of the inhabitants and neighborhood characteristics of affected areas.

B. The Traffic Engineer shall maintain in his office maps designating truck routes. Copies of such maps shall be made available to trucking interests and the public through the office of the City Clerk.

C. The Traffic Engineer shall post with appropriate signs those routes that are restricted. He may also post designated truck routes with appropriate signs. Truck route maps shall be made available to all persons desiring same, and the truck route map shall be published in the official City newspaper. Upon such publishing it shall be unlawful for thru truck traffic upon any prohibited route. The posting of signs shall not be required for enforcement. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-21-2)

22-21-103: TRUCK ROUTE COMMITTEE:

A. Composition and Appointment. There is hereby created a Truck Route Committee for the City, to be composed of seven (7) regular members and two (2) liaison members. The City Council shall appoint the regular members which shall include three (3) representatives of the local truck industry, three (3) homeowner representatives, and one person engaged in the land development business in the City. The homeowner members shall be residents of the City. The two (2) liaison members shall be selected by the City Manager from the Traffic Engineering Division and the Planning Department. The liaison members shall not have the right to vote on any matter before the Truck Route Committee, but shall have the right to be heard and to make recommendations to the Committee. Appointments to the Committee shall be made in such manner as to achieve staggered three (3) year terms. Vacancies shall be filled by appointment for the unexpired term only.

¹ For definitions of general application, see Section 1-1-203 of this Code. For definitions of general application in this Chapter, see Part 2 of Article 1 of this Chapter.

A) Regular members of the Committee shall serve without compensation for their service.

B. Meetings. The Truck Route Committee shall meet at such times and places as it may fix. The regular members shall select one of their members as chairperson. Special meetings may be called at any time by the chairperson or in his absence any member designated acting chairperson by him. A majority of the regular members shall constitute a quorum for the transaction of business. The City Traffic Engineer shall provide needed clerical support for such meetings and maintain records of such meetings in his office.

C. Duties and Authority.

1. The Truck Route Committee shall monitor, review and recommend actions concerning truck operations and related traffic flow within the City. The primary objective of the Committee shall be to develop short and long range recommendations to the City Traffic Engineer for achieving the best possible balance among economical and efficient movement of truck traffic, environmental protection against noise and air pollution relating thereto, and preservation of neighborhood values and characteristics.

2. The Committee shall function in an advisory capacity to the City Planning Commission regarding present and future needs for truck route networks, the problems associated with streets and highways designated as truck routes, the location and effectiveness of existing truck routes, and any other matters associated with truck routes in order to ensure that truck and related traffic control is a major consideration in the functions of the Commission.

3. The Truck Route Committee shall also have the duty and authority to:

a. Review and respond to citizen requests as compiled by the Traffic Engineer for restriction of truck traffic on certain routes.

b. Act as a reviewing agency for citizen complaints concerning truck traffic violations. Such complaints shall be referred to the

C,3) Traffic Engineer prior to Committee consideration.

c. Transmit valid citizen complaints to the local trucking industry for corrective action and valid trucking industry complaints to citizens' groups or appropriate agencies for corrective action.

The Truck Route Committee may, from time to time, recommend legislation to the City Council concerning trucks and truck routes. (Ord. 75-86; 1968 Code § 6-21-3)

22-21-104: OPERATION OF TRUCKS:

A. Thru truck travel shall be unlawful upon prohibited routes. It shall be unlawful for any person to operate or cause to be operated a truck upon a prohibited route without an origin or destination in the immediate area of operation.

B. Upon the designation of truck routes, it shall be unlawful for any person to operate or cause to be operated a truck upon any other street, highway or other public way; provided, however, trucks may deviate from truck routes while traveling to or from a truck terminal, garage, place of repair, place of performing a service or place of loading or unloading, and may proceed from a destination not located upon a truck route to another such destination without returning to a truck route if to so return would unreasonably increase the distance to be traveled between such destinations.

C. Any person operating a truck upon a street, highway, public way, roadways, or portion thereof that is not a truck route, upon a prohibited route, shall have in his possession a log book, delivery slip or other evidence of his point of origin and destination to justify the presence of the vehicle upon such route. Failure to produce such evidence upon request of a police officer shall be unlawful. (Ord. 75-86; Ord. 85-263; 1968 Code § 6-21-4)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC
ARTICLE 22 VEHICLE EQUIPMENT AND INSPECTION

SECTION:

22-22-101: Unsafe Vehicles Prohibited
 22-22-102: Lights, Brakes and Other Required Equipment
 22-22-103: Unauthorized Insignia
 22-22-104: School Bus Lights and Markings
 22-22-105: Inspection of Vehicles
 22-22-106: Exhaust Systems
 22-22-107: Vehicle Emissions Control Certificate

22-22-101: UNSAFE VEHICLES PROHIBITED: It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street or highway within this City, any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property. (Ord. 75-86; 1968 Code § 6-22-1)

22-22-102: LIGHTS, BRAKES AND OTHER REQUIRED EQUIPMENT:

- A. It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street or highway within this City, any vehicle or combination of vehicles which does not contain those parts or is not at all times equipped with such lamps, reflectors, brakes, horn and other warning and signalling devices, mirrors, safety glass, mufflers, fenders, tires and other equipment, kept in proper condition and adjustment as required in C.R.S. 1973 §§ 42-4-202 through 42-4-233, as amended, or which is equipped in any manner in violation of said sections, or for any person to do any act forbidden or fail to perform any act required by and under said sections.
- B. The provisions of C.R.S. 1973 §§ 42-4-202 through 42-4-233, as amended, with respect to equipment on vehicles, shall not apply to implements of husbandry or farm tractors,

B) except as therein made applicable or to certain road machinery exempted by the Colorado Department of Revenue as provided by the laws of the State of Colorado.

C. Nothing contained in this Article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions herein, except that no person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer or semi-trailer or use upon any such vehicle any headlamp, auxiliary or foglamp, rear lamp, signal lamp, reflector or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been approved by the State Department of Revenue.

D. Nothing in this Article shall be construed as abridging or in conflict with the laws of the State of Colorado regarding the equipment that shall be required on motor vehicles. (Ord. 75-86; 1968 Code § 6-22-2)

22-22-103: UNAUTHORIZED INSIGNIA: No owner shall display upon any part of his vehicle any official designation, sign or insignia of any public or quasi-public corporation, municipal, state or national department or government subdivision without authority of such agency. (Ord. 75-86; 1968 Code § 6-22-3)

22-22-104: SCHOOL BUS LIGHTS AND MARKINGS:

- A. Every school bus, other than a small passenger-type vehicle having a seating capacity of not more than nine (9), used primarily for the transportation of school children, shall bear upon the front and rear thereof plainly visible and legible signs containing the words "School Bus" in letters not less than eight inches (8") in height, shall display four (4) visual signal lights,

- A) which shall be two (2) alternating flashing red lights visible to the drivers of vehicles approaching from the front of said bus and two (2) alternating flashing red lights visible to the drivers of vehicles approaching from the rear of said bus, and may also display four (4) additional visual signal lights, which shall be yellow signal lights mounted near each of the four (4) red lights and at the same level but closer to the vertical center line of the bus and which shall be alternately flashing with two (2) visible to the front and two (2) visible to the rear. Said visual signal lights shall be mounted as high as practicable, shall be as widely spaced laterally as practicable, and shall be located on the same level. Said lights shall have sufficient intensity to be visible at five hundred feet (500') in normal sunlight.
- B. When a school bus is equipped only with red visual signal lights, they shall be actuated by the driver of said school bus whenever such vehicle is stopped for the purpose of receiving or discharging school children and at no other time; but such lights need not be actuated when a school bus is stopped at locations where the City Traffic Engineer shall have, by prior written designation, declared such actuation unnecessary.
- C. When a school bus is equipped with alternating flashing yellow lights in addition to the red lights, and when the use of a signal light system is required, the yellow lights shall be actuated at least two hundred feet (200') prior to the point at which such bus is to be stopped for the purpose of receiving or discharging school children, and the red lights shall be actuated only at the time the bus is actually stopped. All school buses required to be equipped shall be equipped with such visual signal light systems as provided in this Section.
- D. In the case of small passenger-type vehicles operated as school buses having a seating capacity of not more than nine (9), no such visual signal lights need be displayed or actuated.
- E. Every school bus used for the transportation of school children, except those small passenger-type vehicles described in subsection D of this Section, shall be equipped with a stop signal arm mounted outside the bus on the left, alongside the driver and below the window. Such stop

- E) signal arm shall be a flat octagon with the word "Stop" printed on both sides in such a manner as to be easily visible to persons approaching from either direction. The stop signal arm shall contain two (2) alternately flashing red lamps which are connected to the alternating flashing light system described in subsection A of this Section, and the stop signal arm shall be extended only when the red visual lights are in operation. (Ord. 75-86; 1968 Code § 6-22-4)

22-22-105: INSPECTION OF VEHICLES: It is unlawful for any person to drive, stop, park or for the owner or person in charge of any vehicle to cause or knowingly permit to be driven, stopped or parked on any street or highway within this City, any vehicle which is required under the laws of the State of Colorado to be inspected unless such vehicle has been inspected at an authorized inspection station, and has attached thereto in proper position a valid and unexpired certificate of inspection as required by the laws of the State of Colorado. (Ord. 75-86; 1968 Code § 6-22-5)

22-22-106: EXHAUST SYSTEMS: Every motor vehicle shall at all times be equipped with an adequate exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise, smoke or flame, and no person shall operate a motor vehicle within the City which is not so equipped, or is equipped with a muffler cutoff, bypass or similar device. It shall be unlawful for any person to operate a motor vehicle with an exhaust system that has been modified in a manner which amplifies or increases the noise emitted above that emitted by the exhaust system originally installed on the vehicle, and such original exhaust system shall comply with all the requirements of this Section. (Ord. 77-68; 1968 Code § 6-22-6)

22-22-107: VEHICLE EMISSIONS CONTROL CERTIFICATE:

- A. It shall be unlawful for any person to drive, stop, park, or for the owner or person in charge of any vehicle to cause or knowingly permit to be driven, stopped, or parked in any public place within this City any vehicle which is required under the laws of the State of Colorado to be inspected pursuant to the Automobile Inspection and Readjustment Program established pursuant

- A) to C.R.S. sections 42-4-306.5 to 42-4-316, unless such vehicle has been inspected at an authorized inspection station and has attached thereto in proper position a valid and unexpired certificate of emissions control, as required by the laws of the State of Colorado.
- B. An officer coming upon an unattended vehicle which is in apparent violation of this Section may place upon the vehicle a penalty assessment notice in accordance with the provisions of Section 22-1-104C of this Chapter.
- C. An officer coming upon an attended vehicle which is in apparent violation of this Section, may issue to the driver a summons and complaint in accordance with the Colorado Municipal Court Rules of Procedure or, at the officer's discretion, a penalty assessment notice in accordance with the provisions of Section 22-1-104C of this Chapter. If a penalty assessment notice is issued to a driver, further action regarding the penalty assessment notice shall be in accordance with Section 22-1-104C of this Chapter, except that all such further action shall be directed to the driver named in the penalty assessment notice, and not to the registered owner of the vehicle unless the driver and the owner are the same person.
- D. In any prosecution charging a violation of this Section wherein said prosecution was initiated under the provisions of subsection B hereof, proof that the particular vehicle described in the complaint was found in a public place within this City in violation of this Section, together with proof that the defendant named in the complaint was, at the time that the vehicle was so found, a registered owner of such vehicle, shall constitute in evidence a prima facie presumption that such registered owner of such vehicle was the person who parked or placed such vehicle at the location where such vehicle was found. (Ord. 83-306; Ord. 85-285)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 23 MISCELLANEOUS RULES OF THE ROAD

SECTION:

- 22-23-101: Obstruction of View or Driving Mechanism
- 22-23-102: Unlawful Riding
- 22-23-103: Boarding or Alighting From Vehicles
- 22-23-104: Riding in Trailers
- 22-23-105: Opening and Closing Vehicle Doors
- 22-23-106: Limitations on Backing
- 22-23-107: Coasting Prohibited
- 22-23-108: Following Fire Apparatus
- 22-23-109: Crossing Fire Hose
- 22-23-110: Foreign Matter on Streets or Highways
- 22-23-111: Parades or Processions; Permits
- 22-23-112: Funeral Processions
- 22-23-113: Motorcycle Rules
- 22-23-114: Railroad Trains not to Block Streets, Intersections
- 22-23-115: Interfere With Motor Vehicle of Another

22-23-101: OBSTRUCTION OF VIEW OR DRIVING MECHANISM:

- A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle, or as to interfere with the driver's control over the driving mechanism of the vehicle.
- B. No person shall knowingly drive a vehicle while any passenger therein is riding in any manner which endangers the safety of such passenger or others.
- C. No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle.
- D. No vehicle shall be operated upon any highway unless the driver's vision through any required glass equipment is normal and unobstructed.

- E. No passenger in a vehicle shall ride in such position as to create a hazard for himself or others, or to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle; nor shall the driver of a vehicle permit any passenger therein to ride in such manner. (Ord. 75-86; 1968 Code § 6-23-1)

22-23-102: UNLAWFUL RIDING: No person shall hang on or otherwise attach himself to the outside, top, hood, or fenders of any vehicle, or to any other portion thereof, other than the specific enclosed portion of such vehicle intended for passengers or while in a sitting position in the cargo area of a vehicle if such area is fully or partially enclosed on all four (4) sides, while the same is in motion; nor shall the operator knowingly permit any person to hang on, or otherwise attach himself to the outside, top, hood, or fenders of any vehicle, or any other portion thereof, other than the specific enclosed portion of such vehicle intended for passengers or while in a sitting position in the cargo area of a vehicle if such area is fully or partially enclosed on all four (4) sides, while the same is in motion. This subsection shall not apply to parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.

The above provisions shall not apply to a vehicle owned by the United States government or any agency or instrumentality thereof, or to a vehicle owned by the State of Colorado or any of its political subdivisions, or to a privately-owned vehicle when operating in a governmental capacity under contract with or permit from any governmental subdivision or under permit issued by the Public Utilities Commission of the State of Colorado when, in the performance of their duties, persons are required to stand or sit on the exterior of the vehicle and said vehicle is equipped with adequate handrails and safeguards. (Ord. 75-86; 1968 Code § 6-23-2)

22-23-103: BOARDING OR ALIGHTING FROM VEHICLES: No person shall board or alight from any vehicle while such vehicle is in motion. (Ord. 75-86; 1968 Code § 6-23-3)

22-23-104: RIDING IN TRAILERS: No person or persons shall occupy a trailer while it is being moved upon a street or highway. (Ord. 75-86; 1968 Code § 6-23-4)

22-23-105: OPENING AND CLOSING VEHICLE DOORS: No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the right side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (Ord. 75-86; 1968 Code § 6-23-5)

22-23-106: LIMITATIONS ON BACKING: The driver of a vehicle may back the same on any street or highway or elsewhere in the City, other than a controlled access roadway, only when such movement is made with safety and without interfering with other traffic. Evidence that a backing vehicle collided with any person or object shall create a rebuttable presumption that such backing movement was unsafe. (Ord. 75-86; 1968 Code § 6-23-6)

22-23-107: COASTING PROHIBITED:

- A. The driver of any motor vehicle when travelling upon a downgrade of a street or highway shall not coast with the gears of such vehicle in neutral.
- B. The driver of a commercial motor vehicle when travelling upon a downgrade of a street or highway shall not coast with the clutch disengaged. (Ord. 75-86; 1968 Code § 6-23-7)

22-23-108: FOLLOWING FIRE APPARATUS: The driver of any vehicle other than one on official business shall not follow any fire apparatus travelling in response to a fire alarm closer than five hundred feet (500'), or drive into or park such vehicle within the block where the fire apparatus has stopped in answer to a fire alarm. (Ord. 75-86; 1968 Code § 6-23-8)

22-23-109: CROSSING FIRE HOSE: No vehicle shall be driven over any unprotected

hose of a fire department used at any fire, alarm of fire or practice run laid down on any street, private driveway or highway except at the direction of a fireman or a police officer. (Ord. 75-86; 1968 Code § 6-23-9)

22-23-110: FOREIGN MATTER ON STREETS OR HIGHWAYS:

- A. No person shall throw or deposit upon any street or highway within this City any glass bottle, glass, stones, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle; nor shall any person dump, deposit, throw or leave any litter on any public or private property in this City, except in a receptacle or container provided for such purpose.
- B. Any person who drops or permits to be dropped or thrown, upon any street or highway or structure within this City any destructive or injurious material or lighted or burning substance, shall immediately remove the same or cause it to be removed.
- C. Any person removing a wrecked or damaged vehicle from a street or highway within this City shall remove any glass or injurious substance dropped upon the street or highway from such vehicle. (Ord. 75-86; 1968 Code § 6-23-10)

22-23-111: PARADES OR PROCESSIONS; PERMITS: No funeral procession or parade, except the forces of the United States Armed Services, the military forces of this State, and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street in this City except in accordance with a permit issued by the Chief of Police and in compliance with such other regulations as are set forth in this Code. (Ord. 75-86; 1968 Code § 6-23-11)

22-23-112: FUNERAL PROCESSIONS:

- A. A funeral procession shall be identified by such method as may be required by the Colorado Springs Police Department.
- B. Each driver in a funeral procession shall drive as near to the right hand edge of the roadway as practicable and shall follow the vehicle ahead as closely as is practicable and safe.

- C. No driver of a vehicle shall drive between or join the vehicles comprising a funeral procession while said vehicles are in motion and when said vehicles are conspicuously designated as required in this Section. This provision shall not apply at intersections where traffic is controlled by signals or police officers. (Ord. 75-86; 1968 Code § 6-23-12)

22-23-113: MOTORCYCLE RULES:

- A. No person shall operate any motorcycle or motor driven cycle on any street or highway within this City unless such person and any passenger thereon is wearing eye goggles or eyeglasses made of safety glass or plastic lens. (Ord. 77-111; 1968 Code § 6-23-13)
- B. Any motorcycle carrying a passenger, other than in a side car or enclosed cab, shall be equipped with foot rests for such passengers.
- C. Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this Chapter, except as to special regulations herein and except as to those provisions of this Chapter which by their nature can have no application.
- D. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person, nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent seat if designed for two (2) persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
- E. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on either side of the motorcycle.
- F. No person shall operate a motorcycle while carrying packages, bundles or other articles which prevent him from keeping both hands on the handlebars.
- G. No person shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.
- H. All motorcycles are entitled to full use of a traffic lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a traffic lane. This subsection shall not apply to motorcycles operated two (2) abreast in a single lane.
- I. The operator of a motorcycle shall not overtake or pass in the same lane occupied by the vehicle being overtaken.
- J. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
- K. Motorcycles shall not be operated more than two (2) abreast in a single lane.
- L. Subsections I and J of this Section shall not apply to police officers in the performance of their official duties.
- M. No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on the roadway. (Ord. 75-86; 1968 Code § 6-23-13)

22-23-114: RAILROAD TRAINS NOT TO BLOCK STREETS, INTERSECTIONS:

It shall be unlawful for any person to direct, order or permit the operation or operate any railroad train in such a manner as to prevent the use of the street or roadway for purposes of vehicular or foot travel by blocking or otherwise preventing the movement of such traffic thereon for any period of time longer than five (5) consecutive minutes in duration, and if a street or roadway is so blocked for a period of five (5) minutes, it shall be left clear for a period of at least five (5) minutes before it is again blocked; provided, that the provisions of this Section shall not apply to trains traveling continuously in the same direction through such intersection or crossing. (Ord. 75-86; 1968 Code § 6-23-14)

22-23-115: INTERFERE WITH MOTOR VEHICLE OF ANOTHER:

It shall be unlawful for any person who is not the owner or operator thereof to tamper, meddle or interfere with any motor vehicle or to start the machinery thereof while the same is standing still, or to puncture or otherwise mutilate the tires or to scratch, mark or otherwise deface the body or apparatus thereof, or to take or remove from such motor vehicle any part or portion of the

machinery, equipment or other portion thereof, or to throw, cast or hurl any stones, rock, glass or other missile at any automobile or motorcycle or the occupant or occupants thereof. (Ord. 75-86; 1968 Code § 6-23-15)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 24 OBEDIENCE TO TRAFFIC REGULATIONS

SECTION:

- 22-24-101: Authority of Police and Fire Department Officials
- 22-24-102: Required Obedience to Traffic Laws
- 22-24-103: Obedience to Police and Fire Department Officials
- 22-24-104: Applicability to Persons Riding or Leading Animals or Driving Animal-Drawn Vehicles
- 22-24-105: Restricted Use of Recreational Equipment
- 22-24-106: Public Employees to Obey Traffic Regulations
- 22-24-107: Authorized Emergency Vehicles
- 22-24-108: Actions on Approach of Authorized Emergency Vehicles
- 22-24-109: Eluding or Attempting to Elude Police Officer

22-24-101: AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS: It shall be the duty of the officers of the Police Department, or such officers as are assigned by the Chief of Police, to enforce all street and traffic regulations of this City and all of the State laws applicable to street and highway traffic in this City.

- A. Police. Officers of the Police Department, or such special officers as are assigned by the Chief of Police, are hereby authorized to direct all traffic by voice, hand or signal in conformance with State traffic laws and this Chapter; provided, that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department and other special officers as are assigned by the Chief of Police, may direct traffic as conditions may require, notwithstanding the provisions of State traffic laws or the provisions of this Chapter.
- B. Fire Department Members. Members of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic there at or in the immediate vicinity.
- C. School Crosswalk Guards. Employees or agents of the school districts within the City of Colorado Springs are hereby authorized to direct traffic by voice, hand or signal in conformance with State

- C) traffic laws and this Chapter at school crosswalks as established by the school district and approved by the City Traffic Engineer and Chief of Police. It shall be the responsibility of the school districts who initiate school crosswalk guard programs to insure the training of school crosswalk guards. Further, it shall be the responsibility of the school districts who engage in a school crosswalk guard program to insure that school crosswalk guards are on duty in accord with the school district's program. The school districts understand and agree that the City of Colorado Springs assumes no liability by authorizing the school districts to enter into a school crosswalk guard program. (Ord. 75-86; Ord. 85-186; 1968 Code § 6-24-1)

22-24-102: REQUIRED OBEDIENCE TO TRAFFIC LAWS: It is a violation of this Chapter for any person to do any act forbidden or to fail to perform any act required in this Chapter. (Ord. 75-86; 1968 Code § 6-24-2)

22-24-103: OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS: No person shall wilfully fail or refuse to comply with any lawful order or direction of any police officer or member of the Fire Department at the scene of a fire, who is invested by the law or ordinance with authority to direct, control or regulate traffic. (Ord. 75-86; 1968 Code § 6-24-3)

22-24-104: APPLICABILITY TO PERSONS RIDING OR LEADING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES:

- A. Every person riding or leading an animal or driving any animal-drawn conveyance upon a street or roadway of this City, shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle, except those provisions of this Chapter which by their nature can have no application.
- B. Persons riding or leading animals on or along any street or highway within this City shall ride or lead such animals on the left side of said street or highway facing approaching traffic. This shall

- B) not apply to persons driving herds of animals along a street or highway where such movement is permitted. (Ord. 75-86; 1968 Code § 6-24-4)

22-24-105: RESTRICTED USE OF RECREATIONAL EQUIPMENT:

- A. No person shall use any street or highway within this City for traveling on skis, toboggans, coasting sleds, skates or similar devices, except as otherwise provided in subsections C and D of this Section, and it shall be unlawful for any person to use any roadway within this City as a sled or ski course for the purpose of coasting on sleds, skis or similar devices.
- B. No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway in this City except while crossing a street in a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.
- C. A snowmobile may be operated on streets and highways under the jurisdiction of this City only when such operation is authorized by special ordinance or addition to this Chapter and appropriate notice is given thereof, and then only in the manner and on such streets prescribed by such ordinance consistent with the provisions of State law.
- D. This Section shall not apply upon any street or portion thereof set aside as a play street and adequately roped off or otherwise marked for such purpose. (Ord. 75-86; 1968 Code § 6-24-5)

22-24-106: PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS:

- A. The provisions of this Chapter applicable to the drivers of vehicles upon the streets and highways in this City shall apply to the drivers of all vehicles owned or operated by the United States, this State, or any county, city, town, district or any other political subdivision of the State, except as otherwise provided in this Chapter.
- B. The operator of City motor vehicles or other equipment actually engaged in cleaning, washing, repairing or otherwise working upon the surface or structure of the highways or the

- B) adjacent curbs, sidewalks or parkways, or upon street lights, traffic control devices and signals, or on other wires and devices suspended immediately above the surface of the highway, may deviate from the duties and prohibitions of this Chapter, provided adequate warning devices are in place to alert traffic of such deviation, and provided further that such deviation can be made without endangering other motor vehicles or persons. (Ord. 75-86; 1968 Code § 6-24-6)

22-24-107: AUTHORIZED EMERGENCY VEHICLES:

The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section but subject to the conditions herein stated.

- A. The driver of an authorized emergency vehicle may:
1. Park or stand a vehicle, irrespective of the provisions of this Chapter;
 2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 3. Exceed the maximum speed limit so long as he does not endanger life or property.
 4. Disregard regulations governing direction of movement or turning in specified directions.
- B. The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of State law, except that an authorized emergency vehicle being operated as a police vehicle while in actual pursuit of a suspected violator of any provision of this Chapter or any provision of State law applicable to drivers and vehicles in this City, need not display or make use of audible and visual signals so long as such pursuit is being made to obtain verification of or evidence of the guilt of the suspected violator.
- C. The provisions of this Section shall not relieve the driver of an authorized emergency vehicle from the duty to drive when due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

- D. The driver of an authorized emergency vehicle shall carry in the vehicle at all times the designation required by State law attesting to the fact that such vehicle has been designated by the State Motor Vehicle Agency as an authorized emergency vehicle by virtue of its use for the preservation of life or property, or for the execution of emergency governmental functions, but failure to carry the written designation shall not affect the status of the vehicle as an authorized emergency vehicle. (Ord. 75-86; 1968 Code § 6-24-7)

22-24-108: ACTIONS ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES: Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of State law, or of a police vehicle properly and lawfully making use of an audible or visible signal or both:

- A. The driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the righthand edge or curb of a street or highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- B. Every pedestrian shall yield the right of way and shall immediately leave the roadway and remain off the same until said vehicle has passed, except when otherwise directed by a police officer. (Ord. 75-86; 1968 Code § 6-24-8)

22-24-109: ELUDING OR ATTEMPTING TO ELUDE POLICE OFFICER: It shall be unlawful for any operator of a motor vehicle who a police officer has reasonable grounds to believe has violated a State law or ordinance of this City, and who has received a visual or audible signal such as a red light or siren from such police officer driving a marked vehicle showing the same to be an official police vehicle directing the said operator to bring his vehicle to a stop, to wilfully increase his speed or extinguish his lights in an attempt to elude such police officer, or to wilfully attempt to or in fact to elude such police officer in any other manner. (Ord. 75-86; Ord. 81-204; 1968 Code § 6-24-9)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

ARTICLE 25 REMOVAL AND IMPOUNDMENT OF VEHICLES

SECTION:

22-25-101: Authority to Impound Vehicles
 22-25-102: Illegal Parking
 22-25-103: Storage and Towing Charges
 22-25-104: Notice of Impoundment, Owner Known
 22-25-105: Unknown Owner or Unclaimed Vehicle,
 Duty of Chief of Police
 22-25-106: Sale of Unclaimed Vehicles, Proceeds
 22-25-107: Removal, Disposal of Automobile Hulks
 and Junkers

22-25-101: **AUTHORITY TO IMPOUND VEHICLES:**

Members of the Police Department are hereby authorized to remove, or have removed at their direction, any vehicle from any public or private way or place, under any of the circumstances hereinafter enumerated, the City Council hereby finding and determining that such vehicles under such circumstances are public nuisances. Any vehicle removed under the provisions of this Section may be taken to the City garage, to any lot maintained by the City, to the Police Department for the storage of impounded vehicles, or to any other place designated by the Police Department, or under contract with the City, for the storage and maintenance of such impounded vehicles.

No action for the recovery of compensation for damages to or loss from any motor vehicle impounded under the provisions of this Code shall be maintained against the City when:

- A. Any vehicle is left unattended upon any bridge, viaduct, subway or tunnel, or where such vehicle constitutes an obstruction to traffic.
- B. A vehicle upon a public way is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury or other physical condition incapacitated to such an extent as to be unable to provide for its custody or removal.
- C. Any vehicle is left unattended upon a street or parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic, or when left on any public street with engine running, or with key in the ignition, or both, or when parked in any area designated by the Traffic Engineer as a "tow-away" area; or when any vehicle is left unattended or parked so as to block ingress or egress from driveways so as to obstruct sidewalk pedestrian traffic.
- D. A vehicle is left parked in the same place upon a public way continuously for a period of seventy two (72) hours, or when any vehicle is left parked upon a street fronting on a business zone area continuously for a period of twenty four (24) hours or more.
- E. The driver of such vehicle is taken into custody by the Police Department and the vehicle would thereby be left unattended.
- F. A vehicle is found being driven upon the street or other public way of the City and the same is not equipped with all the necessary parts and equipment as required by this Chapter, or does not meet the standards of the parts or equipment required therein.
- G. The driver of a vehicle is reasonably suspected of using license plates or a license permit unlawfully, misusing the license plates or license permit issued to him, or a vehicle is driven or parked upon a public way without proper license plates or license permit, or driven or parked with an invalid or expired license permit.
- H. The driver of a vehicle is driving without an operator's license or chauffeur's license which is current and valid, or does not have such license in his immediate possession, or who drives a vehicle contrary to restrictions imposed upon his license, or who drives a vehicle while his operator's license or chauffeur's license has been denied, suspended, cancelled or revoked by the State.
- I. A vehicle is found on or so near to any railroad track as to block the same in any manner.
- J. Any truck-trailer is found to be parked in any parking-metered space.

- K. Any semi-trailer is found to be parked in any parking-metered space.
- L. The driver of any vehicle, or the vehicle which he is driving, is reasonably believed to have been involved in an accident and to have left the scene without reporting the accident to proper authorities.
- M. Any vehicle is reasonably suspected of being a stolen vehicle, or parts thereof to be stolen parts.
- N. The driver of any vehicle is taken into custody for a suspected felony or misdemeanor, or when the vehicle is suspected of containing stolen goods or other contraband.
- O. Except as to vehicles parked in a City-owned parking lot or structure in violation of Article 16 of this Chapter, which vehicles may be immediately impounded pursuant to Section 22-16-110A of this Chapter, any automobile or other motor vehicle is left parked on any roadway, employee parking area, public parking lot, or other place at the Municipal Airport, for a period of thirty (30) days or more. Any vehicle left parked at the Municipal Airport for a period of thirty (30) days or more shall be presumed to have been abandoned by the owner, and is declared to be a public nuisance.
- P. A driver, owner or person in charge of such vehicle has received a notice to respond to a charge against him for a violation of this Chapter and such driver, owner or person in charge of such vehicle has failed to respond and answer to such charge as hereinabove provided, provided also that under the circumstances in this subsection set forth, employees of the City acting in their official capacity and officers of the Police Department, may and they are thereby authorized to temporarily and for a period of seventy two (72) hours immobilize such vehicle by installing on or attaching to such vehicle, a device designed to restrict the normal movement of such vehicle, and if such vehicle is so immobilized the employee of the City or police officer so installing or attaching such device shall conspicuously affix to such vehicle a notice in writing, on a form to be provided by the Chief of Police, advising the owner, driver or person in charge of such vehicle that such vehicle has been immobilized by the City for violation of one or more of the provisions of this Chapter and that release from such immobilization may be obtained at a designated place; that unless arrangements are made for the release of such vehicle (within 72 hours) the vehicle will be removed from the streets at the direction of the employees of the City acting in their official capacity, or by a police officer, and that removing the device before a release is obtained is unlawful; and containing such other information as the Chief of Police shall deem necessary. It shall be unlawful for any person to remove any such device before a release is obtained as herein provided, or to move any such vehicle before the same is released by the Police Department or the Clerk of the Municipal Court; and where such vehicle has been properly immobilized in such manner a fee set by the Municipal Judge shall be charged by the Police Department or Clerk of the Municipal Court before releasing such vehicle, and the parking restrictions, if any, otherwise applicable shall not apply when such vehicle is so immobilized. If the vehicle has remained immobilized for a period of seventy two (72) hours and release has not been obtained, the police officer or employee of the City causing such immobilization shall have such vehicle impounded.
- Q. Except as to vehicles parked in a City-owned parking lot or structure in violation of Article 16 of this Chapter, which vehicles may be immediately impounded pursuant to Section 22-16-110A of this Chapter, any vehicle is left parked at any City-owned or City-operated parking lot or structure, other than at the Municipal Airport, for a period of thirty (30) days or more. Such vehicle shall be presumed to have been abandoned by the owner and is declared to be a public nuisance.
- R. Any vehicle is parked, stopped or allowed to stand in a City-owned parking lot or structure in violation of Article 16 of this Chapter.
- S. An unlicensed and/or inoperable vehicle, within the meaning of Section 14-15-113 of this Code, is being maintained on property within this City in violation of Chapter 14 of this Code. Such vehicles shall be removed by private contractor retained by the Police Department or other City agency, upon the request of the Planning Department or its authorized representatives, made after compliance with the procedures established in Section 14-17-108 of this Code, to the lawful place designated for storage of vehicles seized pursuant to this Article, and thereupon surrendered to the custody of the Chief of Police for storage and/or disposal pursuant to the procedures established in this Article. (Ord. 75-86; Ord. 83-319; Ord. 84-169; 1968 Code §6-25-1)

22-25-102: ILLEGAL PARKING:

- A. It shall be unlawful for any person to park or leave unattended a vehicle in the manner described in subsections A, C, D, I, J or K of Section 22-25-101 above.
- B. The registered owner of such vehicle shall be presumed to have left such vehicle parked or unattended as described in subsection A of this Section. (Ord. 75-86; 1968 Code § 6-25-2)

22-25-103: STORAGE AND TOWING CHARGES:

No vehicle removed to and stored and impounded in the City garage or in a lot maintained for the storage of impounded vehicles, as provided in Section 22-25-106 of this Chapter, shall be released therefrom until the charge for towing or otherwise removing such vehicle thereto, and the charge for storing the same shall have been paid. A charge for the towing or other removal of any such vehicle shall be based upon a computation of all actual expenses the City incurred in accomplishing such towing or removal, and a schedule of such charge or charges shall be posted for public inspection in the offices of the Police Department, the Traffic Violations Bureau and the Impoundment Lot. The charge for storing each vehicle so removed to and stored or impounded in the City garage or a lot maintained for that purpose, shall be fixed by the City Manager or his designated representative based upon a computation of the actual expenses incurred by the City in maintaining such lot or garage. The City Manager, or his designated representative, in his discretion, may waive the imposition and collection of all or any part of the storage charges specified herein, whenever in his judgment the imposition thereof would be an injustice. (Ord. 75-86; 1968 Code § 6-25-3)

22-25-104: NOTICE OF IMPOUNDMENT, OWNER KNOWN:

Whenever an officer, or other employee of the City so authorized, removes a vehicle from the streets as authorized in Section 22-25-101 of this Chapter, the Police Department as soon as practicable thereafter, shall attempt to ascertain from the registration or other records in the vehicle, the name and address of the owner thereof, and if such name and address can be obtained, the Police Department shall, as soon as possible thereafter, cause notice in writing to be delivered by certified mail to the registered owner at the address shown on the registration. Such notice shall contain the following:

- A. The date of such removal.
- B. The reason for removal.
- C. The place to where such vehicle has been removed.
- D. Notice that no claim of ownership or the right to possession thereof has been made and

- D) provided no claim of ownership or the right to possession is made and established to the satisfaction of the City Manager, and no suit or action to determine the same has been instituted, upon the expiration of thirty (30) days from the date of the impoundment the vehicle will be sold at a time and place specified by the City Manager or his designated representative in accordance with the provisions of this Chapter. A copy of said notice shall be sent certified mail to all lien holders of record at their address shown on the registration. (Ord. 75-86; 1968 Code § 6-25-4)

22-25-105: UNKNOWN OWNER OR UNCLAIMED VEHICLE, DUTY OF CHIEF OF POLICE:

Whenever an officer or employee of the City removes a vehicle from a public way, under the provisions and authority of Section 22-25-101 of this Chapter, and does not know or is not able to ascertain the name of the owner thereof, or for any other reason is unable to give the notice to the owner as provided in Section 22-25-104 of this Chapter, and in the event the vehicle is not returned to the owner within a period of three (3) days, then in that event the Chief of Police may consider that such motor vehicle has been stolen and shall immediately send or cause to be sent, a written report of such removal, by mail, to the State Department whose duty it is to register motor vehicles. Such notice shall include a complete description of the vehicle, the date, time and place of removal, the reasons for such removal, and the name of the garage or other place where the vehicle is stored, with the request that the owner of the vehicle be notified immediately. (Ord. 75-86; 1968 Code § 6-25-5)

22-25-106: SALE OF UNCLAIMED VEHICLES, PROCEEDS:

Whenever, pursuant to the terms of this Chapter, a vehicle has been stored in the City garage or any other lot so maintained for the storage of impounded vehicles for a period of thirty (30) days and no claim of ownership or the right to possession thereof has been made, and whenever such claim has been made but not established to the satisfaction of the City Manager within such thirty (30) days, and no suit or action to determine the same has been instituted and is pending, the City Manager or his designated representative may sell such vehicle in the following manner:

- A. In accordance with the terms of a notice given as provided in Section 22-25-104, or without giving notice if no person claiming an interest in the vehicle is known to the City Manager or his designated representative, a sale of the vehicle by auction may be had to satisfy any valid claims of the City for the storage and removal of the vehicle and to discharge the City from further responsibility in connection with the vehicle, and from any duty to further retain or store the same. The sale shall be held in the place where the vehicle is stored and impounded, or if such place is manifestly

- A) unsuitable for the purpose, at the nearest suitable place.
- B. At any time after thirty (30) days from the date of impoundment, the City Manager or his designated representative shall cause to be published an advertisement of sale describing the vehicle to be sold, and stating the names of all persons known by the City Manager to claim an interest in the vehicle, if there are any such persons, and the time and place of the sale. Such advertisement shall be published at least once in the official newspaper of the City.¹ The sale shall be had not less than ten (10) days from the date of the first publication.
- C. From the proceeds of such sales, the City Manager or his designated representative shall satisfy the claim of the City for such charges of removal, storage and advertisement that he shall deem reasonable. The balance, if any, of the proceeds shall be paid into the Police Pension Fund. Within thirty (30) days from the date of any sale resulting in the payment of any such balance of proceeds into the Police Pension Fund, any person claiming to be entitled to any portion of such proceeds may request the City Manager or his designated representative to initiate the refund to him, whereupon the City Manager or his designated representative shall make, or cause to be made, a thorough examination into the merits of such refund, determine whether it is justified, and approve or disapprove the same. Failure of any person to so request the initiation of a refund to him within thirty (30) days from the date of the sale, shall be conclusive of the fact that he has no meritorious claim for such refund, and he shall not thereafter be entitled to such refund.
- D. When any vehicle is offered for sale or auction pursuant to the terms of this Section, and there is no bid or offered bid for the same, the City Manager or his designated representative shall declare the same to be sold to the City for the amount of the charges for the removal and storage of such vehicle, and the charges or expense of notice, advertisement and sale, and shall place the same in custody of the City Manager or his designated representative for the sole benefit and use of the City.
- E. There shall be no right to redemption from any sale made pursuant to the terms of this

- E) Section, and after a vehicle has been sold pursuant to such terms, neither the City nor any officer, agent or employee thereof shall be liable for failure to deliver such vehicle to anyone other than the purchaser or purchasers at such sale. (Ord. 75-86; 1968 Code § 6-25-6)

**22-25-107: REMOVAL, DISPOSAL OF
AUTOMOBILE HULKS AND
JUNKERS:**

- A. Members of the Police Department are hereby authorized to remove, or have removed at their direction an automobile hulk from any public or private way or place. For purposes of this Section "automobile hulk" means any motor vehicle meeting all the following:
 - 1. Left unattended for seventy two (72) hours or more;
 - 2. Three (3) years old or older;
 - 3. Extensively damaged, such damage including but not limited to any of the following: A broken window, windshield or both, missing wheels, tires, motor or transmission;
 - 4. Apparently inoperable; and
 - 5. Having an apparent value of fifty five dollars (\$55.00) or less.
- B. The officer shall record the make of motor vehicle, the serial number, when available, and shall also detail the damage or missing equipment to substantiate the value of fifty five dollars (\$55.00) or less.
- C. No person shall wilfully leave an automobile hulk on a public or private way or place for a period greater than seventy two (72) hours, and such vehicle so left shall be posted by a Police Department employee or representative with seventy two (72) hour notification of summary disposal as a nuisance. If such nuisance is then not abated, the Police Department may then arrange for summary disposal of the automobile hulk. (Ord. 75-86; 1968 Code § 6-25-7)
- D. For vehicles of an apparent value of more than fifty five dollars (\$55.00) but less than one

1. See Section 1-1-601 of the Code of the City.

- D) hundred dollars (\$100.00), a class of "junkers" is hereby established. A junker will be towed to the pound if left for a period of seventy two (72) hours after notice is posted on the windshield that it will be impounded, and held for a minimum of fifteen (15) days. The notification procedure hereinafter provided will be followed. If a claim to a junker is not established to the satisfaction of the City Manager or his designated representative it will be sold to the highest bidder who shall be a bona fide auto salvage dealer with properly zoned property by contracts to remove all junkers in quantity lots within a specified time period. (Ord. 77-12; 1968 Code § 6-25-7)
- E. Whenever as authorized in this Section, an officer or employee of the City removes a vehicle other than an automobile hulk from the place where it was left, and the officer or employee knows, or is able to ascertain from the registration or other records in the vehicle or by other means the name and address of the owner thereof, and if the vehicle is not reclaimed within two (2) days of impoundment, such officer or employee shall give, or cause to be given, on the first business day subsequent to first two (2) days of impoundment a notice in writing to such owner of the fact of such removal, the reason therefor and the place to which such vehicle has been removed.
- F. Whenever an officer or employee of the City removes vehicles from the place where left under the provisions and authority of this Section, and does not know or is not able to ascertain the name of the owners thereof, or for any other reason is unable to give notice to the owners as hereinbefore provided, and the vehicles are subsequently disposed of as provided hereafter, a report of dispositions and identifying description will be given to the State Department whose duty is to register motor vehicles.
- G. Whenever, pursuant to the terms of this Section, a vehicle has been impounded other than as an automobile hulk, and no claim of ownership or the right to possession thereof has been made, or when such claim has been made, but not established to the satisfaction of the City Manager or his designated representative and no suit or action to determine such claim has been instituted and is

- G) pending, the City Manager may dispose of such vehicle in the following manner:

1. The City Manager or his designated representative shall cause written notice to be given to all persons known by him to claim an interest in the vehicle within a reasonable time after impoundment. Such notice shall be given by delivery in person or by registered or certified mail, addressed to the last known address of the business or abode of the person to be notified. The notice shall contain:

a. An itemized statement of the amount due to the City for removal and storage of the vehicle, showing the amount due at the time of notice,

b. A description of the vehicle,

c. A demand that the amount due to the City as stated in the notice and such further claims as shall accrue, shall be paid and the right to the possession of the vehicle shall be established to the satisfaction of the City Manager or his designated representative on or before a date mentioned, not less than thirty (30) days from the date of impoundment or fifteen (15) days if the vehicle is determined to be a junker; and

d. A statement that unless the amount so due the City is paid and the right to possession of the vehicle is established to the satisfaction of the Manager within the time specified, the vehicle, subsequent to advertisement of specific time and place of proposed sale, can be sold by auction, and that if determined to be a junker by auctioned sale as junk together with other such vehicles.

2. The City Manager or his designated representative, in accordance with the terms of a notice so given, or without the giving of such notice if no person claiming an interest in the vehicle is known to the Manager, or his designated representative, shall conduct a sale of the vehicle by auction to satisfy any valid claims of the City in accordance with Section 22-25-106 of this Chapter. (Ord. 75-86; 1968 Code § 6-25-7)

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC
ARTICLE 26 EXISTING TRAFFIC CONTROLS

SECTION:

22-26-101: Existing Traffic Controls

22-26-101: EXISTING TRAFFIC CONTROLS:

Barricades, center lines, freight or passenger loading zones, lane-direction control signals, lane lines, lane streets or highways, loading zones, markings, official traffic control devices, parking meters, pedestrian-control signals, railroad signs or signals, safety zones, stop lines, traffic control signals, posted speed limits, play streets, acceleration lanes, alleys, business districts, controlled-access streets or highways, crosswalks, deceleration lanes, divided highways, intersections, lanes, medians in central dividing strips, play streets, ramps, roadways, sidewalks or sidewalk areas, streets or highways, through streets or highways, bus stops, taxicab stands, authorized emergency vehicles which are effective and/or established as presently required at the time of the passage of this Chapter into law shall be effective pursuant to the authority granted by the provisions of this Chapter as if established and/or posted under this Chapter until such time as they may be changed under the provisions of this Chapter.¹ (Ord. 75-86; 1968 Code § 6-29)

1. The ordinance from which this provision derives became effective September 4, 1975.

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