

CHAPTER 7

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ARTICLE 1

Administration and Abatement of Nuisances

Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated unless otherwise specifically defined in this Chapter:

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

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial waste.

Household waste means any solid waste (including garbage, trash and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels, bunkhouses, ranger stations, crew quarters, campgrounds and day-recreation areas).

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle D of the Federal Resource Conservation and Recovery Act. Such waste may include but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agriculture chemicals; food and related products and by-products; inorganic products; nonferrous metals manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

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

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

Litter means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form size, kind and description.

Municipal solid waste includes commercial and solid waste, household waste and industrial solid waste.

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

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

Solid waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, or other discarded material including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, or industrial discharges that are point sources subject to permits under 33 USC 1342 or a source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

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

Waste includes solid waste, yard waste and municipal solid waste.

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

Yard waste means grass clippings and leaves. (Prior code §12-1; Ord. 774-06 §1)

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

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the City, and any person causing or permitting any such nuisance shall be in violation of this Article. (Ord. 774-06 §1)

Sec. 7-1-30. Author of nuisances.

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Ord. 774-06 §1)

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

No person being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the City, shall maintain or allow any nuisance to be or remain therein. (Ord. 774-06 §1)

Sec. 7-1-50. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the City Administrator dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated. (Ord. 774-06 §1)

Sec. 7-1-60. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice has been given to abate the same. (Ord. 774-06 §1)

Sec. 7-1-70. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 774-06 §1)

Sec. 7-1-80. Procedure for abatement of nuisance.

Wherever in this Code reference is made to the abatement of a nuisance, the procedures to be followed shall be those set out in Section 16-13-301 et seq., C.R.S. (Prior code §1-11; Ord. 774-06 §1)

Sec. 7-1-90. Right of entry.

The City Administrator, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect of the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof. (Ord. 774-06 §1)

Sec. 7-1-100. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 774-06 §1)

Sec. 7-1-110. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 774-06 §1)

Sec. 7-1-120. Violations and penalties.

Any person who violates any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Ord. 774-06 §1)

ARTICLE 2

Nuisances

Sec. 7-2-10. Accumulation to constitute nuisances.

Whenever there shall be in or upon any lot or piece of ground within the limits of the City any damaged merchandise, litter, trash, rubbish, garbage, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in Chapter 16 of this Code for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Article. (Ord. 774-06 §1)

Sec. 7-2-20. Posting handbills, posters and placards.

Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public building or upon any fence, power pole, telephone pole or other structure without the permission of the owner or agent shall be deemed a nuisance and may be abated as provided in this Chapter. (Ord. 774-06 §1)

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

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, any dead animal, excrement, garbage or other offensive matter upon any street, avenue, alley, sidewalk or public or private grounds. No person shall throw or deposit or cause or permit to be thrown or deposited in the City anything specified in any foregoing part of this Section or any other substance that would tend to have a polluting effect into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. (Ord. 774-06 §1)

Sec. 7-2-40. Stagnant ponds.

The permitting of stagnant water on any lot or piece of ground within the City limits is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the City is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon, and it is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Ord. 774-06 §1)

Sec. 7-2-50. Sewer inlet.

No person shall, in the City, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health. (Ord. 774-06 §1)

Sec. 7-2-60. Nauseous liquids.

No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place. (Ord. 774-06 §1)

Sec. 7-2-70. Stale matter.

No person shall keep, collect or use, or cause to be kept, collected or used, in the City any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation. (Ord. 774-06 §1)

Sec. 7-2-80. Transporting garbage, manure.

Every cart or vehicle used to transport manure, garbage, swill or offal in any street in the City shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Ord. 774-06 §1)

Sec. 7-2-90. Dead animal removal.

When any animal dies in the City, it shall be the duty of the owner or keeper thereof to properly dispose of the body of such animal. If such body is not forthwith buried on the owner's private property, removed to a regulated landfill or disposed of at a location licensed for dead animal disposal, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal is in any street, highway or public grounds in the City, it shall be the duty of the Chief of Police to cause such body to be removed forthwith beyond the limits of the City. (Ord. 774-06 §1)

Sec. 7-2-100. Noisemakers.

The use of music, noisemakers or loudspeakers on the streets of the City for the sale or vending of products, advertising or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter. (Ord. 774-06 §1)

Sec. 7-2-110. Inoperable vehicles.

It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building or stored behind a privacy fence. The provisions of this Section shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations. (Ord. 774-06 §1)

Sec. 7-2-120. Vacant residential dwellings.

All broken windows in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Chief of Police. (Ord. 774-06 §1)

ARTICLE 3

Garbage and Refuse

Sec. 7-3-10. Accumulations of waste; nuisance.

(a) The accumulation of waste, other than weekly trash, on any premises, improved or unimproved, or upon any public street, alley or other public place in the City is hereby declared to be a nuisance and is prohibited.

(b) The parking or replacement of old, unused, stripped or junked motor vehicles, camper trailers, travel trailers, camper shells or camper units, together with other machinery, implements or equipment of any kind, any of which is no longer serviceable or safely usable for the purposes for which it was manufactured for a period of thirty (30) days (except in approved junkyards) within the City is hereby declared to be a nuisance and dangerous to the public safety. No personal property shall be used as a storage facility for other property.

(c) The owner, tenant, lessee, occupant or person in control of any lot or land within the City upon which such property is located shall jointly and severally abate such nuisance by promptly removing the personal property to a proper disposal site or by placing in a completely enclosed building intended to be used for storage purposes. Action to abate such a nuisance must be completed within ten (10) days of written notice.

(d) In addition to any other penalty provided for failure to abate a nuisance, whenever the owner or another fails to abate such nuisance within the time set out in the notice specified in Subsection (c) above, the City shall remove such property to a location of its choice, and the expenses therefor shall be assessed to the owner or others, jointly and severally. Such charge shall become a lien against the real property as provided in Subsection 13-30(b) of this Code and shall be certifiable to the County Treasurer. (Prior code §12-2; Ord. 774-06 §1)

Sec. 7-3-20. Accumulation and deposit of waste prohibited.

No person shall deposit or place any waste in such a manner that the same is or tends to become a nuisance or endangers or tends to endanger the public health; nor shall any person cause or permit any such waste to be accumulated on any premises in the City in such a manner that such waste is or tends to become a nuisance or endangers or tends to endanger the public health. (Prior code §12-3)

Sec. 7-3-30. Importation of waste prohibited.

It is unlawful for any person to dispose of waste in any privately owned dumpster or container not produced or consumed on the premises by the owner or occupant thereof without consent. It is

unlawful for any person to use a dumpster or container placed at publicly owned facilities for waste produced or consumed elsewhere than at the publicly owned facility. (Prior code §12-4)

Sec. 7-3-40. Waste not to be thrown in street, vacant lot, etc.

No waste of any kind or nature whatsoever shall be disposed or placed in any street, sidewalk, gutter, sewer intake, alley, vacant lot or land, or other property in the City, except as designated for the City's trash collection system. (Prior code §12-5)

Sec. 7-3-50. Responsibility of owners and others.

It shall be the duty of every person, whether owner, occupant or person in control of any lot, building or premises in the City, including without limitation any residential, commercial, industrial or other type use, to maintain at all times the premises in a clean and orderly condition. The accumulation of waste shall constitute a nuisance and may be abated by the City as provided in Subsection 7-3-10(d) above. (Prior code §12-6)

Sec. 7-3-60. Building and construction materials removed from construction site.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roof material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, demolition, construction, reconstruction, alteration or remodeling of any room, basement, wall, fence, sidewalk or building shall be promptly removed and discarded in such manner as not to be scattered by wind or otherwise, and as soon as possible shall be removed and disposed of by the contractor or person responsible for such work. (Prior code §12-7)

Sec. 7-3-70. Accumulation and use of manure.

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any other purpose or stored in any place for later use and shall be plowed under or removed by the owner or occupant. (Prior code §12-8)

Sec. 7-3-80. Burning of waste material.

(a) It is unlawful for any person to burn any waste material of any kind or character by any means within the City, except in gas-fired incinerators or properly constructed and operating heating appliances used for burning solid or liquid fuels, installed, operated and maintained in accordance with building, mechanical and fire codes of the City and any other applicable state and federal regulations.

(b) This Section shall not apply to the open burning of irrigation ditches and the extraordinary accumulation of tumbling weeds upon prior approval of the City Administrator, taking into consideration the particular circumstances of each instance and the protection of the public health, safety and welfare, when such burning is done in full compliance with all applicable state and federal regulations. (Prior code §12-9)

Sec. 7-3-90. No dumping in natural drainage system.

No person shall throw or place any refuse, paper, trash, bottles, cans, yard waste, concrete, garbage, containers, litter or other debris in any ditch, stream, river or retention basin that regularly or periodically carries surface water runoff. Any person who deposits any such trash shall remove it or shall cause it to be removed therefrom immediately. The Community Service Officer or other duly authorized employees of the City shall be permitted to enter upon all properties, in accordance with the provisions for entry as provided in Section 1-5-10 of this Code, for the purpose of inspection of such natural drainage areas and, upon discovery of any dumping of such trash, shall provide the owner or occupant of the site of the unlawful dumping, and to the violator who unlawfully dumped the same if such person can be identified, written notice to satisfactorily correct the same within the period of time stated in such notice of no less than ten (10) days. Such notice shall be delivered to the owner or occupant thereof and to the violator who unlawfully dumped the same if such person can be identified, mailed to the premises, or conspicuously posted on the primary building (as *building* is defined in Subsection 16-1-60(c) of this Code). Any person who violates this Section shall, upon conviction, be penalized as provided in Section 7-4-60 of this Chapter. In the event the City removes such trash from a natural drainageway, the charges provided for in Section 7-4-20 of this Chapter shall apply. In the event the City must bring a civil action to enforce this Section, the defendant shall be responsible for all court costs and attorney's fees incurred by the City. (Prior code §12-10)

ARTICLE 4

Waste Collection

Sec. 7-4-10. Waste collection service.

(a) The City or its agents, contractors or registered operators shall be the sole collectors of waste (except animal waste and fats for rendering); no other person shall collect or dispose of any waste in the City, whether his or her own or another's. Nothing in this Article shall relieve any building contractor of the obligations imposed upon him or her by Section 7-3-60 of this Chapter; nor shall anything in this Article prevent an individual from hauling his or her own construction waste as defined in Section 7-3-60, yard waste as defined in Section 7-1-10, and waste designated for special collection as defined by resolution adopted by City Council, to the County landfill, provided that it is properly disposed of in conformity with all city, county, state and federal regulations. This Article shall not apply to any City-approved recycling program.

(b) No person shall collect, transport or remove municipal solid waste within the city without having first registered with the City. Registration is available for operators other than the City for waste collection service for industrial or commercial establishments or multi-family residences of eight (8) or more units; and for lands newly annexed to the City after April 19, 1994, as provided in Section 30-15-401, C.R.S.

(c) Every person collecting, transporting or removing municipal solid waste within the City shall use a packer type vehicle equipped with a tight metal box to prevent the loss of any contents therefrom. Every such vehicle shall not exceed a gross vehicle weight of fifty-one thousand (51,000) pounds on any street or highway within the City and shall be well maintained for safe and healthy operation. Hours of operation shall be between 7:00 a.m. and 6:00 p.m. in all areas of the City.

(d) Every person collecting, transporting or removing municipal solid waste within the City shall carry liability insurance in a minimum amount of one million dollars (\$1,000,000.00), together with property damage insurance of no less than fifty thousand (\$50,000.00) per incident.

(e) Any person desiring to register for collecting, transporting or removing municipal solid waste within the City shall register with the City on a form provided by the City. Any change in the information so provided to the City at the time of initial registration shall be provided to the City within ten (10) days of the date of change. (Prior code §12-12; Ord. 774-06 §1)

Sec. 7-4-20. Charges for City collection.

(a) The City shall, by resolution, establish charges for collection service, prescribe the time and manner of payment of such charges, and adopt rules and regulations designed to enforce the payment thereof as, in its discretion, are necessary and desirable. Such resolution, when adopted and as it may be amended from time to time, shall be of the same force and effect as an ordinance of the City.

(b) The charges assessed for waste collection service shall be a lien upon the property served prior to all other liens except general taxes and prior special assessments until the same is paid. In case an owner of any premises shall fail to pay such charges within thirty (30) days after due, the City Clerk shall certify such delinquent charges, together with a ten percent (10%) penalty thereon to defray the cost of collection, to the County Treasurer to be placed by him or her on the tax list for the current year and to be collected in the same manner as other taxes are collected. (Prior code §12-13; Ord. 774-06 §1)

Sec. 7-4-30. Disposition and use of funds.

All funds collected by the City for waste collection service under this Article shall be credited to the Trash and Garbage Enterprise Fund, the proceeds of which shall be used to defray the expenses of operating such collection services, including without limitation the furnishing and maintaining of necessary equipment, the wages, salaries and benefits of persons employed in such service, and other reasonable and necessary expenses. (Prior code §12-14; Ord. 774-06 §1)

Sec. 7-4-40. Disturbance of waste containers.

No person shall deface, remove or otherwise disturb any waste containers or the contents thereof; provided however, this Section shall not apply to the person using the container or generating the waste placed therein. (Prior code §12-15)

Sec. 7-4-50. Preparation of waste for collection.

The City Council shall by resolution promulgate rules and regulations relating to the manner of preparing and accumulating waste for collection, the type and size of containers to be used for such collection, and such other rules and regulations as, in its discretion, are necessary or desirable in the interest of maintaining efficiency and sanitary conditions in the waste collection system within the City. Such regulations, when adopted, shall be of the same force and effect as if incorporated in this Article. (Prior code §12-16)

Sec. 7-4-60. Penalty.

Any person who violates any of the provisions of this Article, does an act therein declared to be unlawful or fails, neglects, omits, resists or refuses to comply with the provisions thereof or with a lawful order given pursuant thereto or any regulations or requirements thereto, shall on conviction be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code §12-17; Ord. 774-06 §1)

ARTICLE 5

Weeds and Brush

Sec. 7-5-10. Growth and accumulation of weeds prohibited.

(a) As used in this Article, *weed* means any plant that grows where not wanted, including rank or noxious vegetation, and specifically includes field bindweed, Carolina horsenettle, white horsenettle, Johnson grass, joint goat grass, Russian knapweed, musk thistle, silverleaf povertyweed, woolleaf poverty leaf, perennial sowthistle, leafy spurge, St. Johnswort, Canada thistle, whitetop, hairy whitetop, tall whitetop, halogeton, sorghum almun, curly dock, doddlers, purpleflower, groundcherry, blue lettuce, wild oat, buckhorn plantain, mouse ear povertywood, puncture vine, quackgrass and wild mustard. This list is not intended to be inclusive, but rather is intended to be indicative of those types of vegetation which are considered noxious and a detriment to the public health and safety.

(b) No owner of any lot, block or parcel of land within the City, nor any tenant or occupant thereof, shall allow or permit any weed or brush to grow more than twelve (12) inches in height or size or remain on such lot or land, or on or along any sidewalk or in any alley adjoining the land. Every such owner or occupant shall keep weeds cut close to the ground.

(c) If any such owner or occupant shall fail to cut or maintain weeds as required by this Section, after ten (10) days' notice to do so, mailed to the premises or delivered to the owner or occupant, or conspicuously posted on the primary building (as *building* is defined in Subsection 16-1-60(c) of this Code), the City Administrator, based on guidance of the City Council, may direct that the weeds be cut by the City and charge the actual cost thereof to such owner or occupant, together with a five percent (5%) surcharge for inspection and other incidental costs, and such administrative fee as may be set by the City Council by resolution from time to time; provided that in the case of a vacant lot not improved by a building (as defined in Subsection 16-1-60(c)), the notice required by this Section need only be served annually on the owner thereof by certified mail to the last known address of the owner as shown by the property tax records of the County Treasurer ten (10) days prior to the City's cutting weeds. Any notice required to be served under this Section shall set out the contents of this Section in full. All charges for the cutting of weeds shall be a lien against the subject land as provided in Subsection 13-3-30(b) of this Code and shall be certifiable to the County Treasurer. (Prior code §12-22; Ord. 774-06 §1)

Sec. 7-5-20. Declaration of nuisance.

Any weeds or brush found growing more than twelve (12) inches in height in any lot or tract of land in the City is hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place. (Ord. 774-06 §1)

ARTICLE 6

Trees

Sec. 7-6-10. Definitions.

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

Park trees are trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.

Street trees are trees, shrubs, bushes and all other woody vegetation on land lying between the right-of-way lines on either side of all streets or highways within the City limits. (Prior code §12-25; Ord. 774-06 §1)

Sec. 7-6-20. Street tree species to be planted.

(a) The following list constitutes the official street tree species for the City:

<i>Small</i>	<i>Medium</i>	<i>Large</i>
Cockspur Hawthorn	Imperial Honey locust	European Linden
Russian Hawthorn	Skyline Honey locust	Norway Maple
Washington Hawthorn	Greenspire Linden	Western Hackberry
	Littleleaf Linden	Marshall Ash
		Patmore Ash
		Shademaster Honey locust
		English Oak
		Bur Oak
		American Linden

(b) No species other than those included in this list may be planted as street trees by any person without prior written permission of the Tree Board. The Tree Board may amend this list from time to time. (Prior code §12-29)

Sec. 7-6-30. Prohibited trees.

(a) It is unlawful to sell or import into the City, or to plant or cause to be planted within the corporate limits of the City, any female box-elder tree (*Acer negundo*).

(b) The owner of any property within the City, upon which any female box-elder tree has been planted after the effective date of this Article, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the City.

(c) In case of the failure of any owner of such property to cut and remove such box-elder tree planted after the effective date of this Article, the City shall cut and remove such box-elder tree, and a lien for the actual costs, plus five percent (5%), shall be placed upon the property.

(d) It is unlawful and deemed a nuisance to sell or import into the City or plant or cause to be planted any female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the City, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance. (Ord. 774-06 §1)

Sec. 7-6-40. Spacing.

The spacing of large street trees shall be at least fifty (50) feet apart so as to allow for safe, healthy and attractive growth. Smaller types of trees shall be spaced a minimum of thirty (30) feet apart unless otherwise authorized by the Tree Board. (Prior code §12-30)

Sec. 7-6-50. Distance from curb, sidewalk, driveway, fire hydrants and street corner.

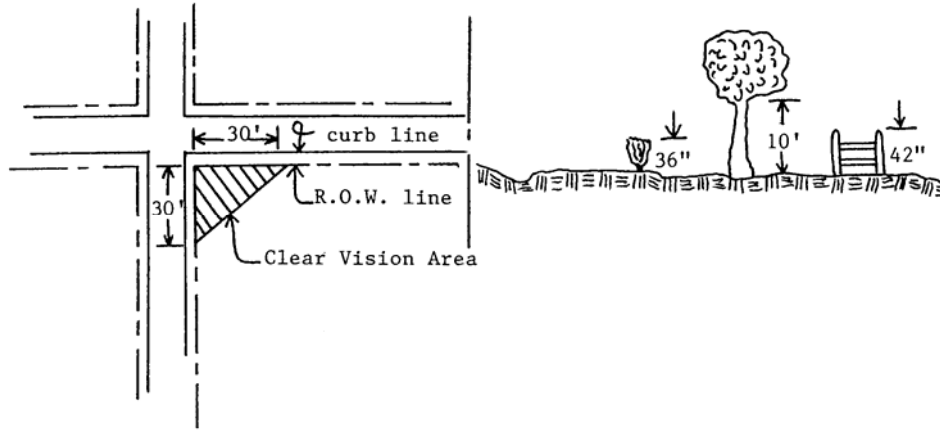
(a) Unless otherwise authorized by the Tree Board, all newly planted street trees shall be planted midway between the sidewalk or property line and the curb, and at least thirty (30) feet back from any street corner, measured from the point of the nearest intersecting curbs or curb lines (see Figure 1).

(b) Planting of any street tree along a street where the distance between the curb and the sidewalk or property line is less than eight (8) feet shall require prior authorization from the Tree Board. Where the combination sidewalk-curb and gutter has been installed, no tree planting shall be made closer than five (5) feet from the edge of any concrete installation.

(c) No tree shall be planted closer than five (5) feet to any driveway or alley; nor shall it be planted in such a manner that as a result of normal growth it interferes with or obstructs any improvements installed for public benefit, such as traffic signals, street signs, fire hydrants, overhead wires, street lights, utility poles, etc.

(d) Where a distance of less than five (5) feet in width exists between the curb and sidewalk or the abutting property line, no trees or shrubs shall be planted.

Figure 1
Sight Intersection Triangle



(Prior code §12-31)

Sec. 7-6-60. Structures, trees or shrubs obstructing view.

Whenever the Chief of Police determines that: (a) the visibility at an intersection located within the City is impeded because of something being erected, placed, planted or allowed to grow in such a manner as to materially interfere with vision between a height of thirty-six (36) inches and ten (10) feet above the centerline grades of the intersecting street in the area bounded by the street right-of-way lines, such corner lots and a line joining points along said street right-of-way lines thirty (30) feet from the point of intersection (see Figure 1); or (b) that the view of any traffic control sign is obstructed by street trees for a distance of one hundred fifty (150) feet from said sign, the Chief of Police shall notify the Public Works Director in order to make arrangements to abate the problem. (Prior code §12-32; Ord. 774-06 §1)

Sec. 7-6-70. City removal.

(a) It shall be the duty of the owner of private property abutting the right-of-way of any street, alley, sidewalk or other public place to trim, remove or protect any tree or shrub on such owner's property which may project beyond the property line onto or over the right-of-way abutting the same. The Tree Board shall have the power to require any such property owner to perform such maintenance on any tree or shrub projecting over abutting right-of-way of any street, alley, sidewalk or other public place as may be necessary. The Tree Board shall cause a notice requiring such work to be performed to be served upon the property owner in accordance with Section 7-6-90 below, and such work shall be completed within seven (7) days after receiving the notice. Nothing in this Section shall be construed to require the owner of property to trim any trees or shrubs when such trimming is necessary because of utility lines or traffic control signs or devices, and in such case it shall be the duty of the City or owner of said utilities to do any trimming required for such utilities or traffic control signs or devices.

(b) The employees and agents of the City shall have the right of access to all property in the City, under the provisions for entry as provided in Section 1-5-10 of this Code, for the purpose of

inspecting any trees and shrubs to determine the necessity of their removal and for the purpose of performing the necessary work should the owner fail to do so. (Prior code §12-33; Ord. 774-06)

Sec. 7-6-80. Liability.

Notice to the owner or person in charge shall be notice to all such persons. Liability both for violation of this Chapter and for the cost of performing the work required by the City shall be borne jointly and severally by the owner. (Prior code §12-34)

Sec. 7-6-90. Contents of notice and manner of service.

(a) The notice required by Section 7-6-60 above shall contain the following:

(1) Plain and concise statement of the work required to be done and the section of the City Code requiring the same;

(2) A statement of the time within which said work must be done;

(3) A statement that if the work is not performed within the required time, the City will perform the work at the expense of the owner and that the costs thereof, in addition to being an individual liability, shall become a lien upon the land and, if not paid when due, will be certified to the County Treasurer for collection in the manner of other taxes; and

(4) A statement that failure to perform the required work constitutes a violation of this Code and will subject the owner to a fine up to three hundred dollars (\$300.00), in addition to any sums charged for City work.

(b) The notice shall be personally delivered to the owner or any member of his or her family over the age of eighteen (18), at his or her usual place of residence. If the owner does not reside within the City, service may be had by mailing the same to him or her, by first class postage prepaid, at his or her last known address as shown on the City's utility billing records. Notice shall be deemed complete when placed in the United States mail. When service is by mail, an additional three (3) days shall be added to the minimum period of time within which the prescribed work shall be completed.

(c) If the owner of the premises cannot be found after reasonable diligence or an address obtained, service may be had by posting the premises, in which case no fine shall be imposed for a violation of this Code and the minimum time within which the required work must be done shall be ten (10) days. (Prior code §12-35; Ord. 774-06 §1)

Sec. 7-6-100. Interest.

Any sums assessed against a property owner shall bear interest at the rate of ten percent (10%) per annum from the time the payment is due until such time as it shall be finally paid. (Prior code §12-36)

Sec. 7-6-110. Remedies cumulative.

No assessment of cost by the City against any person hereunder shall constitute a waiver of a fine for said violation, and the remedies hereunder are independent of one another. (Prior code §12-37)

Sec. 7-6-120. Utilities.

Only those species listed as small trees in Section 7-6-20 above may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line, gas line, cable TV line or other utility. (Prior code §12-38)

Sec. 7-6-130. Public tree care.

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, highways and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Tree Board may remove or cause or order to be removed any tree or part thereof which is in unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is infected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of street trees by property owners adjacent to street or highway rights-of-way, provided that the selection and location of said trees is in accordance with Sections 7-6-20 through 7-6-50 of this Article. (Prior code §12-39)

Sec. 7-6-140. Public ways.

The foregoing notwithstanding, any trees or shrubs which have been planted in any public ways, rights-of-way or easements directly adjacent to and abutting upon any public street within the City shall be removed, trimmed or otherwise remedied in accordance with the foregoing terms of this Article at the expense of the City and not at the expense of the property owner whose land the public way abuts. (Prior code §12-40)

Sec. 7-6-150. Planting or removal of trees, shrubs or other vegetation in the public way.

No person shall plant, prune or otherwise remove, destroy or cause to be planted, pruned, removed or destroyed, any tree, shrub or hedge in or upon any public right-of-way or easement of any street, alley, sidewalk or other public place within the City without having first obtained therefor a written permit from the City Administrator. (Prior code §12-41; Ord. 774-06 §1)

Sec. 7-6-160. Permit application and conditions.

Any person desiring to plant, prune, remove or destroy any tree, shrub or hedge in or upon the public right-of-way of any street, alley, sidewalk or other public place within the City shall first make written application therefor at the office of the City Administrator upon forms furnished by the City. Such application shall set forth the name and address of the applicant, the name and address of the person doing the work, the species of tree or shrub to be planted or removed and the location of the same, together with such other information as the City Administrator shall require. The applicant

shall, at the time of making the application, agree in writing, in all respects, to save the City harmless and indemnify the City and the public at all times in connection with the planting, removal or destruction of any tree, shrub or hedge to be planted or removed under such permit. (Prior code §12-42)

Sec. 7-6-170. Inspection for permit.

The City Administrator shall inspect the location of the proposed planting, pruning or removal and if, in his or her opinion, it is desirable that such a tree, shrub or hedge be planted, pruned or removed, he or she shall issue a permit therefor. In making decisions as to granting of permits and of the conditions therein, the City Administrator shall be guided by the spirit of intent of the zoning ordinance, Brush Comprehensive Plan, the rules and regulations of the Tree Board, concerning the adaptability of the type of tree or shrub to this location and climate, its susceptibility to disease, its prospective longevity, its need for water, its requirements for care and any other reasonable considerations involving the species of plant and its suitability to the particular area. Said permit shall set forth the name of the person who shall perform the work, the location in which the tree or shrub is to be planted, pruned or removed, and any conditions reasonably required in connection therewith. (Prior code §12-43)

Sec. 7-6-180. Penalty.

(a) Any owner of real property who shall, after notice required by Section 7-6-60 of this Article, fail to perform the required action shall be guilty of a violation of this Chapter and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00).

(b) Any person who fails to comply with any condition of the permit required by Section 7-6-160 above or does any planting, pruning, removal or destruction of any tree in any public place or public way without the required permit is guilty of a violation of this Chapter and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00). Each tree, shrub or hedge unlawfully planted, pruned or destroyed constitutes a separate violation. (Prior code §12-44)

Sec. 7-6-190. Tree topping.

It is unlawful as a normal practice for any person or City department to top any street tree, park tree or other tree on public property. *Topping* is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Complete removal of the tree is more desirable. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Section at the determination of the Tree Board. (Prior code §12-45)

Sec. 7-6-200. Dead or diseased tree control.

Upon the discovery in any tree within the City of any destructive or communicable disease, insect infestation or disease which constitutes a potential threat to other trees within the City, the City shall have the right to remove the tree, eradicate the condition or cause the removal of the tree or eradication of the condition pursuant to Section 7-6-90 of this Article. The City Administrator with input from the Tree Board shall notify in writing the owners of such trees. Within a reasonable time,

not more than sixty (60) days after written notification, said owners shall eradicate or remove such condition. (Prior code §12-46)

Sec. 7-6-210. Removal of stumps.

All stumps of street and park trees shall be removed no less than a minimum of twelve (12) inches below the ground. (Prior code §12-47)

Sec. 7-6-220. Interference with Tree Board.

It is unlawful for any person to prevent, delay or interfere with the Tree Board, or any of its agents, while engaging in the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this Article. (Prior code §12-48)

Sec. 7-6-230. City Council review.

The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the City Council, which shall hear the matter and make a final decision. (Prior code §12-49)

ARTICLE 7

Animals

Division 1. In General

Sec. 7-7-10. Definitions.

As used in this Article, unless the context otherwise requires, the following terms shall have the meanings indicated:

Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

Animal means any living dumb creature.

Cat means any domesticated member of the feline family.

Dog means any domesticated member of the canine family.

Mistreatment includes every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

Neglect includes failure to provide food, water, protection from the elements, opportunity for exercise or other care normal, usual and proper for an animal's health and well-being.

Owner, as used in this Article shall include every person in possession of or harboring any cat or who shall suffer a cat to remain about his or her premises for a period of three (3) days;

or shall include a possessor or keeper of any dog. (Prior code §§5-3, 5-29, 17-24; Ord. 774-06 §1)

Sec. 7-7-20. Keeping of certain animals prohibited.

(a) It is unlawful for any person to own, possess or harbor within the City any cattle, sheep, horses, mules, swine, goats, chickens, turkeys, ducks, geese or any other livestock or fowl. This Section shall not apply to the ordinary operation of sale barns, the county fairgrounds and necessary pens and feedlots, including dipping, shipping, shearing and feeding operations, nor the keeping in the home of small domestic animals customarily and ordinarily kept as pets.

(b) It is unlawful for any person to own, possess or harbor in the City any of the following species of animals: any monkey, ape or other primate; any poisonous snake or reptile; any nonpoisonous snake, including such a snake that presents a risk of serious physical harm or death to human beings as a result of its nature or physical makeup, including all constrictors; any jaguar, leopard, cheetah, mountain lion, wildcat, panther or other species of felines other than an ordinary domesticated house cat; any deer, antelope, elk or other antlered or horned species; any bear; any crocodile or alligator; any badger, prairie dog, skunk, beaver, muskrat, raccoon, mink or bat; any wolf, coyote, fox or other species of canine other than the ordinary domesticated dog; or any other wild or exotic animal which presents a danger to public health and safety. The provisions of this Section shall not be applicable to any zoological exhibit by a bona fide zoological organization. (Prior code §5-1; Ord. 774-06)

Sec. 7-7-30. Number of dogs and cats.

No more than three (3) dogs over the age of four (4) months and no more than three (3) cats over the age of four (4) months shall be kept or maintained at any street address within the City. Properly licensed pet stores, veterinarian clinics or pet grooming facilities are exempt from this Section. Each dwelling unit shall be considered to have a separate address for purposes of this Section, except that a main dwelling unit and a secondary dwelling unit on a residential lot shall be considered to have one (1) street address. (Ord. 774-06)

Sec. 7-7-40. Animal control within one mile of City limits.

(a) No person shall own, keep or confine within one (1) mile beyond the outer limits of the City any livestock except as may be permitted by Section 3.2415 of the current Morgan County Zoning Regulations, which section is incorporated herein by reference as if set out in full as it exists on the effective date of the ordinance codified in this Section; provided however, that a livestock confinement operation shall not be permitted within one (1) mile beyond the outer limits of the City. For purpose of this Section, *livestock confinement operation* shall be defined as set out in Section 1.4383 of said Morgan County Zoning Regulations, and *livestock* shall be defined as set out in Section 1.4382 of said Morgan County Zoning Regulations, which sections are incorporated herein by reference as if set out in full as they exist on the effective date of the ordinance codified in this Section.

(b) Any livestock confinement operation existing as of the effective date of the ordinance codified in this Section shall be deemed a nonconforming use as defined and regulated by Section 2.06000 and related sections of said Morgan County Zoning Regulations, which sections are

incorporated herein by reference as if set out in full as they exist on the effective date of the ordinance codified in this Section, and shall be controlled and regulated in accordance therewith; provided however, that no such operation shall be conducted or be permitted to operate in such a way as to give rise to offensive or obnoxious odors or in such a way as to constitute a hazard to the public health or safety by reason of such odors, the accumulation of manure, the breeding of flies and rodents, the disposition of dead animals, the release of fugitive dust, the collection or improper drainage of storm waters, and the like.

(c) Any lot, parcel or tract of real property in violation of the limitations of this Section shall be deemed a public nuisance and subject to abatement, including a permanent injunction prohibiting any such activity. (Prior code §5-2; Ord. 774-06 §1)

Sec. 7-7-50. Animal holdings; disposition of unclaimed animals.

(a) Any pet animal held by or in the custody of the animal shelter operated by the City and not reclaimed by the owner shall be held by the animal shelter for a minimum of five (5) days after acquisition by the animal shelter before it may become available for adoption or otherwise disposed of at the discretion of the animal shelter. For purposes of this Section, *days* means days during which the animal shelter is open to the public, to include those days that the animal shelter is available by telephone or dispatch. If the animal shelter acquires the pet animal from the owner or an authorized representative of the owner, the pet animal becomes the property of the animal shelter at the time of transfer of the pet animal and the pet animal may be disposed of by and at the discretion of the animal shelter. If the animal is abandoned, as defined in Section 18-9-201(1), C.R.S., the pet animal becomes the property of the animal shelter upon acquisition and may be disposed of by and at the discretion of the animal shelter. Pet animals which, in the opinion of a veterinarian, are experiencing extreme pain or suffering may be disposed of immediately by the animal shelter through euthanasia after the animal shelter has exhausted reasonable efforts to contact the owner; however, for pet animals with identification, the animal shelter shall exhaust reasonable efforts to contact the owner for up to twenty-four (24) hours.

(b) For purposes of this Section, *dispose* or *disposition* means adoption of a pet animal, return of a pet animal to the owner, release of a pet animal to a licensed rescue group, release of a pet animal to another licensed pet animal facility, release of a pet animal to a rehabilitator licensed by the Colorado Division of Wildlife or the United States Fish and Wildlife Service, or euthanasia. (Prior code §5-2.5)

Sec. 7-7-60. Cruelty to animals.

(a) A person commits cruelty to animals if, except as authorized by law, a person knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicle in a cruel manner, or otherwise mistreats or neglects any animal or causes or procures it to be done; or, having the charge and custody of any animal, fails to provide it with proper food, drink or protection from the weather, or abandons it.

(b) Upon conviction, the penalty for violation of this Section shall be a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) ninety (90) days imprisonment,

or both. Every animal involved in any violation of this Section shall constitute a separate offense. (Prior code §17-24; Ord. 774-06 §1)

Sec. 7-7-70. Penalty.

The penalty for conviction of a violation of any provision of this Article, unless otherwise specifically set forth, shall be a fine up to three hundred dollars (\$300.00). Upon a third conviction within one (1) year of any prior conviction, a minimum fine of fifty dollars (\$50.00) shall be imposed, and upon a fourth and subsequent conviction within one (1) year of any prior conviction, a minimum fine of one hundred dollars (\$100.00) shall be imposed. The minimum fines are mandatory and the Court shall have no authority to suspend any portion thereof. (Prior code §5-41; Ord. 774-06 §1)

Division 2. Dogs

Sec. 7-7-110. License required.

(a) It is unlawful for the owner of any dog within the City to own, keep or harbor a dog without having obtained a license for such dog from the City Clerk on or before March 1 of each year or within thirty (30) days after the dog reaches the age of four (4) months. Dogs purchased, obtained or otherwise acquired subsequent to March 1 in any calendar year shall be licensed within thirty (30) days after such acquisition. A new resident of the City shall have thirty (30) days after becoming such resident to secure a license hereunder.

(b) No more than three (3) dog licenses shall be issued to one (1) address. (Prior code §5-4; Ord. 774-06 §1)

Sec. 7-7-120. License fees.

The fee for the license required by this Division shall be established by resolution of the City Council from time to time. Such fees shall be due and payable on January 1 of each year. Such fees shall be delinquent if not paid by March 1 of such year. The full yearly license fee shall be charged for all licenses before July 1 of each year for which a yearly license fee has not been paid; and for all licenses issued after July 1 of any year, one-half (½) of the yearly license fee shall be charged for that year. (Prior code §5-5; Ord. 774-06 §1)

Sec. 7-7-130. License application; rabies inoculation certificate required.

Upon application for a dog license, the applicant shall exhibit to the City Clerk a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this Division. All applications for licenses shall be made on forms provided by the City Clerk. (Prior code §5-6)

Sec. 7-7-140. Issuance of dog tag.

It shall be the duty of the City Clerk to deliver or cause to be delivered to each person making application for a license, paying the license fee provided for in this Article and presenting the certificate of inoculation required, a dog tag for each dog licensed and inoculated. (Prior code §5-7)

Sec. 7-7-150. Dog tag possession.

Only those persons who own, possess or keep a dog duly licensed and inoculated in accordance with the provisions of this Division shall be permitted to possess a dog tag as herein provided for. (Prior code §5-8)

Sec. 7-7-160. Description of dog tag.

The dog tag provided for in this Article shall be of such size, shape, color and material as may be deemed expedient; provided, however, that the color thereof shall be changed each year. Such tag shall contain a number stamped thereon in numerical order, beginning with the number 1, and shall also indicate the year for which the same is issued and the word *Brush*. (Prior code §5-9)

Sec. 7-7-170. Dog tag attachment.

Every owner of a dog within the City shall place upon such dog a collar or harness made of durable materials to which the dog tag herein provided for shall be attached. (Prior code §5-10)

Sec. 7-7-180. Improper use of dog tag.

No person shall affix to the collar or harness of any dog or permit to remain so affixed a tag evidencing licensing and rabies inoculation except the dog tag issued to that dog at the time of issuance of its license. (Prior code §5-11)

Sec. 7-7-190. Record of dog tags issued; duplicate and new tags.

The City Clerk shall keep a record of the date of issuance of each dog tag provided for in this Article, such record to include the name of the person to whom such tag is issued and the number thereof. If the dog tag provided for herein is lost or destroyed, a duplicate tag may be obtained from the City Clerk upon the payment of fee to be established by resolution of the City Council from time to time. In the event that the ownership or possession of the dog is changed, a new dog tag shall be obtained and such new tag shall be issued by the City Clerk upon proof that the inoculation and licensing requirements of this Article have been complied with and upon payment of the established fee. (Prior code §5-12; Ord. 774-06 §1)

Sec. 7-7-200. Rabies inoculation required.

The owner of every dog six (6) months of age or older shall have such dog inoculated against rabies no more frequently than is recommended in the *Compendium of Animal Rabies Control* as promulgated by the National Association of State Public Health Veterinarians. The City Council shall promulgate the frequency of such inoculations by resolution as the recommendation set out in the Compendium changes from time to time. Dogs purchased, obtained or otherwise acquired or brought into the City shall be inoculated within thirty (30) days after such dog reaches six months (6) of age or, if more than six (6) months of age, is brought into the City, whichever first occurs, unless previously inoculated as recommended by the Compendium. (Prior code §5-13)

Sec. 7-7-210. Inoculation by veterinarian.

The inoculation required by Section 7-7-200 above shall be made by any veterinarian licensed to practice veterinarian medicine in the State. (Prior code §5-14)

Sec. 7-7-220. Establishment and operation of animal shelter.

The City Administrator shall have the right to establish an animal shelter for the City, to be operated by City personnel, or the City Administrator may, subject to the approval of the City Council, contract with a public or private person or organization for the operation of an animal shelter for and on the behalf of the City. (Prior code §5-15; Ord. 774-06 §1)

Sec. 7-7-230. Impoundment generally.

It shall be lawful for the Community Service Officer and all police officers to impound any dog which is not wearing a dog tag as herein provided and any dog which they reasonably believe to be in violation of any of the provisions of this Division, whether such dog is wearing a dog tag or not. It shall be lawful for the Community Service Officer or any police officer to go upon private property for the purpose of catching any dog to be impounded. (Prior code §5-16)

Sec. 7-7-240. Proceedings against owner of impounded dog.

If a dog is impounded, it shall be the duty of the Community Service Officer or any police officer to institute proceedings in the Municipal Court on behalf of the City against the owner of such dog if known, charging the owner with violation of the appropriate section of this Division. Nothing herein contained shall be construed as preventing the Community Service Officer, any police officer or any citizen from instituting a proceeding in the Municipal Court for violation of this Division where there is no impoundment. (Prior code §5-17)

Sec. 7-7-250. Authority of Municipal Judge.

In addition to any penalties which may be provided for in this Code for a violation of this Article, the Municipal Judge shall assess, in addition to any other court costs imposed upon conviction of a violation of this Article, the fees provided for in Section 7-7-260 below. The Municipal Judge shall have the authority, upon making a finding that a dog or cat constitutes a nuisance, that such dog or cat is vicious, or that such dog or cat constitutes a clear and present danger to the citizens of the community, to order that such dog or cat be destroyed. (Prior code §5-19)

Sec. 7-7-260. Impoundment fees.

Any owner or other person desiring to redeem a dog from the pound shall pay the City an impoundment fee, together with such other sum for each day of impoundment, or part thereof, for room and board and any and all license or rabies inoculation fees provided for in this Article. Said fees, in addition to any costs incurred for disposal of the dog, shall be assessed as additional costs in the Municipal Court upon conviction for violation of any provision of this Article. (Prior code §5-21)

Sec. 7-7-270. Interference with or obstruction of officers prohibited.

It is unlawful for any person to interfere with, molest, hinder or obstruct the Community Service Officer or any police officer in the discharge of their official duties under this Division. (Prior code §5-22)

Sec. 7-7-280. Barking or howling dogs.

It is unlawful for any person owning, possessing or keeping custodial or supervisory authority or control over any dog to permit such dog by loud and persistent or habitual barking, howling or yelping, or by making any other persistent or habitual noise, to disturb or tend to disturb the peace of any other person. (Prior code §5-23)

Sec. 7-7-290. Removal of defecation.

Any owner or person having custody of any dog shall not permit said dog to defecate on any school ground, public street, alley, sidewalk, parkway, park or any other public grounds, or on any private property within the City, other than the premises of the owner or person having custody of said dog, unless said defecation is immediately removed. The defecation of dogs on any such lands is hereby deemed to be a public nuisance and prohibited. Dog defecation shall not be placed in storm sewers and shall be disposed of in a sanitary manner. (Prior code §5-23A)

Sec. 7-7-300. Running at large generally.

It is unlawful for any owner of any dog in the City to permit or allow the same to run at large within the City. A dog shall be deemed to be running at large while on the premises when either not enclosed in a suitable fence and when not under the control and direct supervision of the owner, or not restrained by a chain, leash, cord, rope or other similar device capable of restraining the animal a distance of at least five (5) feet from all property lines. A dog shall be deemed running at large when away from the premises of the owner when said animal is not under the control of such person, servant or member of his or her immediate family, by leash, cord, chain, rope or other such similar device not exceeding ten (10) feet in length. (Prior code §5-24)

Sec. 7-7-310. Female dogs in heat; nuisance; disposal.

The running at large of any female dog within the City while such dog is in heat is hereby declared a nuisance. The owner of any female dog shall not permit said dog to run at large while in heat. Such a dog may be impounded as provided for in Section 7-7-230 of this Article and disposed of as provided in Section 7-7-40 of this Article after notice shall be given. (Prior code §5-25)

Sec. 7-7-320. Vicious dogs.

(a) As used in this Section, *vicious dog* means:

(1) Any dog with a known propensity, tendency or disposition to attack or bite without provocation or to cause serious physical injury to or otherwise threaten the safety of human beings or other domestic animals;

(2) Any dog which because of its size, physical nature and vicious propensity is capable of inflicting serious physical injury or death to humans or other domestic animals or which constitutes a danger to human life or property;

(3) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal;

(4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

(5) Any offspring of any such dog described above.

(b) It is unlawful for any person to own, possess or harbor a vicious dog within the City.

(c) The Community Service Officer or any police officer shall immediately impound a dog he or she reasonably believes to be a vicious dog. If a vicious dog cannot be taken up and caught by the Community Service Officer or police officer without such officer exposing himself or herself to danger of serious bodily injury from such dog, it shall be lawful for such officer forthwith to destroy such dog without notice to the owner thereof and without liability to the owner therefor.

(d) If it is determined by the Municipal Judge that a dog is vicious or that a dog constitutes a clear and present danger to the citizens of the community, the Municipal Judge shall order that the dog forthwith be destroyed at the expense of the owner, including any impoundment fees due up to the date of destruction.

(e) The provisions of this Section shall not apply to dogs owned or used by the Police Department or other law enforcement agency regularly in the performance of police work within the City. (Prior code §5-26)

Sec. 7-7-330. Dog fighting.

No person shall own, possess or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack humans or domestic animals. (Prior code §5-26A)

Sec. 7-7-340. Confinement of dogs biting persons or suspected of having rabies.

(a) The owner of any dog which has bitten or is suspected to have bitten any person, or which is suspected of having rabies, shall immediately notify the Community Service Officer or any police officer of such fact.

(b) Any dog which has bitten or is suspected to have bitten any person, or which is believed to have rabies or to have been exposed to rabies, shall be confined, upon order of the Community Service Officer or any police officer, for a period of ten (10) days for observation. Such dog shall be confined either at the animal shelter or under the supervision of a licensed veterinarian for observation. All fees for such impoundment and observation shall be charged to the owner of the dog. (Prior code §5-27; Ord. 774-06 §1)

Sec. 7-7-350. Liability of owner of dog violating Division.

For the purpose of prosecution for violations of this Division, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner in question that such dog was violating any of the provisions of this Division at the time and place charged, it being the purpose and intent of this Section to impose strict liability upon the owner for the actions, conduct and condition of such dog. (Prior code §5-28)

Division 3. Cats

Sec. 7-7-410. License required.

(a) It is unlawful for the owner of any cat within the City to own, keep or harbor a cat without having obtained a license for such cat from the City Clerk on or before March 1 of each year or within thirty (30) days after the cat reaches the age of four (4) months. Cats purchased, obtained or otherwise acquired subsequent to March 1 in any calendar year shall be licensed within thirty (30) days after such acquisition. A new resident of the City shall have thirty (30) days after becoming such resident to secure a license hereunder.

(b) No more than three (3) cat licenses shall be issued to one (1) address. (Prior code §5-30; Ord. 774-06 §1)

Sec. 7-7-420. License application; rabies inoculation certificate required.

Upon application for a dog license, the applicant shall exhibit to the City Clerk a certificate from a licensed veterinarian that the cat has been inoculated against rabies as required by this Division. All applications for licenses shall be made on forms provided by the City Clerk. (Prior code §5-31; Ord. 774-06 §1)

Sec. 7-7-430. License fees.

(a) The fee for the license required by this Division shall be established by resolution of the City Council from time to time. Such fees shall be due and payable on January 1 of each year. Such fees shall be delinquent if not paid by March 1 of such year. The full yearly license fee shall be charged for all licenses before July 1 of each year for which a yearly license fee has not been paid; and for all licenses issued after July 1 of any year, one-half (½) of the yearly license fee shall be charged for that year.

(b) Upon satisfactory proof that a license or license tag has been lost, a new license or license tag of a different number may be issued upon the payment of a fee to be established by resolution of the City Council from time to time.

(c) License forms may be furnished to licensed veterinarians in the area in reasonable quantities. No cat license shall be valid unless and until signed by the City Clerk and all fees therefor have been paid. (Prior code §5-32; Ord. 774-06 §1)

Sec. 7-7-440. Attachment of license tag.

Every cat shall at all times wear a substantial, durable harness or collar to which shall be securely attached the required license tag. (Prior code §5-33)

Sec. 7-7-450. Improper use of license tags.

It is unlawful for any person to allow any cat owned, kept or harbored by him or her to wear a license tag received on account of a former license, to wear any imitation of the license tag issued by the City for that year, or to wear any tag marked on the plate or collar similar to that required by the City at that time, which is calculated to deceive. (Prior code §5-34; Ord. 774-06)

Sec. 7-7-460. Rabies inoculation required.

(a) The owner of every cat six (6) months of age or older shall have such cat inoculated against rabies no more frequently than is recommended in the *Compendium of Animal Rabies Control* as promulgated by the National Association of State Public Health Veterinarians. The City Council shall promulgate the frequency of such inoculations by resolution as the recommendation set out in the Compendium changes from time to time. Cats purchased, obtained or otherwise acquired or brought into the City shall be inoculated within thirty (30) days after such cat reaches six (6) months of age or, if more than six (6) months of age, is brought into the City, whichever first occurs, unless previously inoculated as recommended by the Compendium.

(b) It is unlawful for any police officer or Community Service Officer to release any cat from the animal shelter without such cat having been first vaccinated against rabies unless the owner displays a current rabies vaccination certificate.

(c) It is lawful, for the purpose of determining compliance with this Section, for the Chief of Police or any of his or her agents or representatives to make inspections to determine whether cats have been properly vaccinated. Any entry made shall be with the owner's permission for such inspection. However, if the owner's permission is not obtained, the Chief of Police may, in the event of emergency, effect immediate entrance. Otherwise a search warrant shall be obtained. However, it is declared that area warrants may be obtained from the Municipal Judge upon a showing of probable cause that there is reason to believe that any particular area may shelter or provide habitation for unvaccinated cats. (Prior code §5-35; Ord. 774-06 §1)

Sec. 7-7-470. Biting cats or cats suspected of having rabies confined for observation.

(a) Any cat which is suspected of having rabies or which has bitten, scratched or clawed a person or other animal shall be impounded either in the animal shelter or placed under the supervision of a licensed veterinarian for observation. All fees for such impounding and observation shall be charged to the owner of such cat.

(b) The cat shall be placed in a suitable facility and quarantined for a period of ten (10) days at the expense of its owner.

(c) Upon determination that the cat is infected with rabies, it shall be immediately destroyed. (Prior code §5-36)

Sec. 7-7-480. Disposition of cats exposed to rabies.

Cats known to have been bitten by or exposed to a rabid animal shall be:

- (1) Immediately destroyed upon determination that such cat is rabid; or
- (2) Released upon proof of immunization and booster injections given by a licensed veterinarian at the expense of the owner. (Prior code §5-37)

Sec. 7-7-490. Harboring unvaccinated cats prohibited.

It is unlawful for any person to harbor, feed or maintain any cat which has not been vaccinated against rabies or which cannot be identified as having a current vaccination certificate. (Prior code §5-39; Ord. 774-06 §1)

Sec. 7-7-500. Impound fees.

Any owner desiring to redeem a cat from the animal shelter shall pay the City an impoundment fee, together with a sum for each day of impoundment, or part thereof, for room and board, and any and all license or rabies inoculation fees established by resolution of the City Council from time to time. All such fees, in addition to any cost incurred for disposal of a cat, shall be assessed as additional costs in the Municipal Court upon conviction of any violation under this Article. (Prior code §5-40; Ord. 774-06 §1)