

MONTE VISTA

MUNICIPAL

CODE

2009

A Codification of the General Ordinances
of the City of Monte Vista, Colorado,

A Home Rule Municipality

Published by

COLORADO CODE PUBLISHING COMPANY
Fort Collins, Colorado

PREFACE

The City of Monte Vista, a home rule City, has published its Municipal Code in a format which features the following:

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

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

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

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

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

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

COLORADO CODE PUBLISHING COMPANY
323 West Drake Road, Suite 200
Fort Collins, CO 80526
800-352-9229 ♦ 970-498-9229
colocode@frii.com ♦ www.colocode.com

STATE OF COLORADO
CITY OF MONTE VISTA, COLORADO
ORDINANCE NO. 811

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

Be It Ordained by the City Council of the City of Monte Vista, Colorado:

Section 1. The Code entitled the Monte Vista Municipal Code published by Colorado Code Publishing Company, consisting of Chapters 1 through 14, with Appendices, Tables and Index, is adopted.

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

Section 3. Secondary Codes.

a. The following code is hereby adopted by reference and incorporated in the Monte Vista Municipal Code: The *Model Traffic Code for Colorado*, 2009 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 7-1-10, et seq. One (1) copy of each is on file in the Town Clerk's office:

b. The following codes were previously adopted by reference and incorporated in the Monte Vista Municipal Code. One (1) copy of each is on file in the Town Clerk's office:

(1) The *International Building Code*, 2003 edition, published by the International Code Council, as adopted and amended in Section 14-1-10;

(2) The *International Residential Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 14-2-10;

(3) The *Colorado Plumbing Code*, published by the Colorado Board of Plumbers, as adopted in Section 14-3-10;

(4) The *International Mechanical Code*, 2003 edition, published by the International Code Council, Inc., as adopted in Section 14-4-10; and

(5) The *International Energy Conservation Code*, 2006 edition, published by the International Code Council, as adopted in Section 14-5-10.

Section 4. The penalties provided by the Municipal Code of the City of Monte Vista are hereby adopted as follows:

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

(a) Any act or failure to act which is prohibited, made or declared to be unlawful or an offense, nuisance or misdemeanor shall be a violation of this Code or any other ordinance, orders, rules or regulation of the City. Any person who is convicted of the violation of any such provision of this Code or such other ordinance, orders, rules or regulations for which a different penalty is not specifically provided shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case.

(b) Unless otherwise specifically provided elsewhere in this Code, every day any violation of this Code or any other ordinance, order, rule or regulation of the City continues shall constitute a separate offense.

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

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

(3) Sec. 2-5-50. Collection and receipt of moneys. (Chapter 2, Article 5, Municipal Court)

(a) It shall be the duty of the Municipal Judge to supervise the collection and receipt of all fees, fines, penalties, costs and other sums receivable by or payable to the Municipal Court.

(b) The Municipal Judge is authorized to require every defendant entering a plea of guilty or nolo contendere or found guilty by the court (except those charged with parking violations and prepaid traffic tickets) to donate items or money having a value not exceeding ten dollars (\$10.00), as a surcharge to the penalty and costs assessed and within the fine jurisdiction of the Municipal Court, and to such community charitable organizations as the City Council may, by resolution, from time to time determine.

(4) Sec. 2-5-70. Contempt power. (Chapter 2, Article 5, Municipal Court)

(a) When the Court finds any person to be in criminal contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one thousand dollars (\$1,000.00) and imprisonment not to exceed a term of ninety (90) days, or by both such fine and imprisonment.

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

(5) Sec. 2-5-80. Jurisdiction of juveniles. (Chapter 2, Article 5, Municipal Court)

The Municipal Court shall have jurisdiction over any juvenile within its jurisdiction who is likewise subject to the Colorado Children's Code, and said juvenile may be prosecuted for any violation of a City ordinance in the same manner in which any adult may be so prosecuted. However, the penalty which may be imposed upon any said juvenile shall be limited to a fine of not more than one thousand dollars (\$1,000.00) and restitution. The Municipal Court shall have the power to hold any juvenile in contempt of court for willfully failing to comply with the Municipal Court's order to pay any such fine, provide restitution or perform public service or other orders for any such contempt violation. The Municipal Court shall not have authority to impose any jail sentence upon any juvenile who is found guilty of violating any municipal ordinance of the City; provided that any juvenile who is found to have committed successive violations of any municipal ordinance or any combination of violations of a municipal ordinance in a single episode shall be subject to a fine equivalent to that imposed upon any adult, and shall be subject to any combination of sanctions as otherwise provided in this Section.

(6) Sec. 2-5-90. Violation, penalty. (Chapter 2, Article 5, Municipal Court)

The Municipal Court shall have authority to incarcerate for a period not exceeding ninety (90) days and to impose a fine not exceeding one thousand dollars (\$1,000.00), or both, upon any person convicted of violating an ordinance of the City, except where such ordinance specifies a lesser or different penalty. Nothing contained in this Section shall limit the power of the Municipal Judge to impose other penalties in accordance with law.

(7) Sec. 3-2-40. Penalty for violations. (Chapter 3, Article 2, Sales Tax)

Any person violating any provisions or failing to comply with the mandatory requirements of this Article, upon conviction, shall be deemed guilty and shall be punished pursuant to Section 1-4-20 of this Code or, in the alternative, such violator shall be prosecuted by the State under the provisions of Section 39-26-101, et seq., C.R.S.

(8) Sec. 3-3-70. Penalties. (Chapter 3, Article 3, Utility Occupation Tax)

If any officer, agent or manager of a utility company which is subject to the provisions of this Article fails, neglects or refuses to make or file any monthly statement or payment in the manner herein prescribed, the officer, agent, manager or person shall, on conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Each day after such monthly statement or payment becomes delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement or payment shall be considered a separate and distinct offense.

(9) Sec. 4-1-60. Suspension; revocation. (Chapter 4, Article 1, Business Licenses)

The City Council has the power at any time, upon violation by any holder of a license, as provided for in this Article or any of the regulations lawfully prescribed under this Article by the City Council, or upon violation of any provisions of the state statutes adopted by reference

in Section 3-2-120 of this Code, to suspend or revoke any license at a hearing held before the City Council. Any device or method employed by the holder of a license to evade the payment of the sales tax owed to the City, as provided in Chapter 3, Article 2 of this Code, shall be sufficient cause for suspension or revocation of the license.

(10) Sec. 4-2-90. Suspension; payment of fine. (Chapter 4, Article 2, Alcoholic Beverages)

(a) In any case involving a final decision by the City Council acting as the Local Licensing Authority of the City in suspending a retail liquor license or a fermented malt beverage license in accordance with the Colorado Liquor Code, Section 12-47-101, et seq., C.R.S., or the Colorado Beer Code, Section 12-46-101, et seq., C.R.S., to which reference is hereby made, the holder of such license shall be allowed to petition for permission to pay a fine in lieu of suspension. Such petition must be filed with the City Clerk prior to the operative date of such suspension. The granting or denying of such petition shall be discretionary with the Local Licensing Authority.

(b) The Local Licensing Authority shall not grant the petition unless it is satisfied that:

(1) The public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension;

(2) The payment of the fine will achieve the desired disciplinary purposes;

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

(4) The retail licensee has not had his or her license suspended or revoked or had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(c) The fine accepted shall be the equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of fermented malt beverages during the period of the proposed suspension, except that the fine shall not be less than two hundred dollars (\$200.00) or more than five thousand dollars (\$5,000.00).

(d) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash or in the form of a certified check or cashier's check made payable to the City.

(e) Upon payment of a fine pursuant to this Section, the Local Licensing Authority shall enter its further order permanently staying imposition of the suspension. Such moneys shall be paid into the general fund of the City.

(f) If the Local Licensing Authority does not grant the petition to pay a fine as above described, the suspension shall go into effect on the operative date set by the Local Licensing Authority.

(11) Sec. 4-4-70. Revocation, suspension, rejection; hearing. (Chapter 4, Article 4, Contractors)

Any license issued or applied for pursuant to this Article may be revoked, suspended or refused when the licensee or applicant intentionally and openly violates the federal, state and municipal laws, rules and ordinances pertaining to the building trades. However, no license shall be revoked or suspended for the reason contained in this Section, except by action of the City Council upon a verified complaint, filed with the City Council by a party directly affected by such violation, setting forth the violations, and unless such complaint or a part thereof shall, in the opinion of a majority of the City Council present at a meeting thereof, be sustained by evidence presented at a hearing before the City Council. The licensee shall be given notice of the hearing and a copy of the complaint at least ten (10) days prior to the hearing. He or she shall be permitted to be present and be represented by counsel at such hearing and present evidence thereat in his or her own behalf.

(12) Sec. 4-9-20. Penalty for violations. (Chapter 4, Article 9, Tattoo Establishments)

Any person who violates any of the provisions of this Article, upon conviction, shall be punished by revocation of any license or permit issued hereunder if a license or permit has been issued to such person, and pursuant to Section 1-4-20 of this Code.

(13) Sec. 5-2-130. Abatement; penalty. (Chapter 5, Article 2, Abatement of Nuisances)

Any person who is responsible for creating or maintaining any nuisance as provided for in this Article may, in addition to the civil penalties and costs provided herein, be punished in accordance with the provisions of Section 1-4-20 of this Code. Every person violating or contributing in any way to the violation of any provision of this Chapter shall be deemed guilty of a separate offense for each day during which such violation continues and may be punished for each such violation as provided in this Section.

(14) Sec. 6-2-10. Dangerous dog prohibited. (Chapter 6, Article 2, Dogs)

(a) Dangerous dogs are a serious threat to the safety and welfare of citizens of the City because of the number and serious nature of attacks by such dogs.

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

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

Dangerous dog means any dog that:

a. Has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal;

b. Has demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict injury upon or cause the death of any person or domestic animal; or

c. Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

Dog means any domesticated animal related to the fox, wolf, coyote or jackal.

Domestic animal means any dog, cat, other domesticated pet or livestock.

Owner or *owns* means any person, firm, corporation or organization owning, possessing, harboring, keeping, having financial or property interest in or having control or custody of a domestic animal, including a dangerous dog.

Serious bodily injury has the same meaning as such term is defined in Section 18-1-901(3)(p), C.R.S.

(c) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in or has custody or control over a dangerous dog.

(d) Any person convicted of a violation of this Section shall be subject to the general penalty provided in Section 1-4-20 of this Code. In addition, the Court may order any owner of a dangerous dog who has been convicted of a violation of this Section to:

(1) Confine such dangerous dog in a building or enclosure designed to be escape-proof and, whenever such dog is outside of such building or enclosure, keep the dog under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, such dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

(2) In addition to any other penalty set forth in this Subsection, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the Municipal Judge or a jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury or death to a person or domestic animal, the Municipal Court, pursuant to applicable provisions of Title 16, C.R.S., governing restitution, may order the defendant to make restitution in accordance with said provisions.

(3) In addition to the penalties set forth in this Subsection, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the Municipal Judge or a jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal, or for a second or subsequent violation of Subsection (c) above or resulting in a conviction, deferred judgment or deferred prosecution involving the same dog of the same owner, the Municipal Court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this Section, the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian.

(e) An affirmative defense to the violation of this Section shall be:

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

(2) That, at the time of the attack by the dangerous dog which caused injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;

(3) That, at the time of the attack by the dangerous dog which caused injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner;

(4) That, at the time of the attack by the dangerous dog which caused injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property and the attack began, but did not necessarily end, upon such property; or

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

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

(g) If any dog is found in violation of this Section, it shall be taken up and impounded; provided, however, that if any dangerous, fierce or vicious dog found at large cannot be safely taken up and impounded, such dog may be forthwith slain by the police officer.

(15) Sec. 6-3-40. Redemption and fines. (Chapter 6, Article 3, Impoundment)

The owner of any dog so impounded may reclaim such dog upon proof of vaccination of the dog against rabies and payment of any unpaid license fees, all costs, fees and charges incurred by the City for impoundment and maintenance of the dog, and any penalty assessment to the City; provided, however, that the owner or person in charge of any dog running at large in violation of Section 6-2-20 of this Chapter shall be subject to the following fine and penalties, regardless of whether any dog has been impounded: The penalty for the first offense of allowing any dog to run at large is twenty-five dollars (\$25.00). The penalty for the second offense of allowing any dog to run at large within two (2) years following the first offense is fifty dollars (\$50.00); and the penalty for all subsequent offenses of allowing any dog to run at large within two (2) years following the second offense is one hundred dollars (\$100.00).

(16) Sec. 7-1-60. Violations. (Chapter 7, Article 1, Model Traffic Code)

(a) It is unlawful for any person to violate any of the provisions of this Article of this Chapter for which no specific penalty has been provided or for which the sole penalty provided is a fine, which violations are hereby deemed traffic infractions. All provisions of the Model Traffic Code (referenced in Section 7-1-10 above and as the same may be from time to time republished) which have been deemed "traffic infractions" in identical substantive provisions of Title 42, C.R.S., are hereby deemed *traffic infractions* under this Chapter and are thereby "decriminalized." (Reference is made to the "common code" appendix to Title 42, C.R.S., published by Bradford Publishing Co., 1741 Wazee Street, Denver, Colorado 80202 [and as the same may be from time to time amended] for classification and compilation of such traffic infractions.) A traffic infraction shall be a civil matter for which punishment by imprisonment

shall not be available, and for which a penalty assessment notice shall be issued. Every person who is convicted of a traffic infraction is subject to a penalty of at least ten dollars (\$10.00), but not more than one hundred fifty dollars (\$150.00) for a first offense within any twenty-four-month period, exclusive of any court costs and surcharges.

(b) For any violation of any provision of this Article which is a traffic infraction, no trial by jury shall be available, no arrest warrant shall be issued for failure to appear or to pay, no privilege against self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such a violation shall otherwise be in conformity with those generally applicable to civil matters.

(c) For any violation of any provision of this Article which is a traffic infraction, the Municipal Court may enter a judgment of liability by default against the defendant for failure to appear or to pay, and may assess such penalty, together with such court costs and surcharges, as are established by law. The Municipal Court may establish, by written order, rules and regulations for the administration of any violation of this Article which is a traffic infraction, including but not limited to schedules establishing the amount of penalties payable without a court appearance. The Municipal Court will utilize Colorado State procedures for any penalty assessment notice which constitutes a traffic infraction. Any penalty assessment notice which is paid within twenty (20) days of issuance of said notice shall result in the following reduction in points:

(1) A four-point or three-point violation will be reduced to a two-point violation.

(2) A two-point violation will be reduced to a one-point violation.

(d) It is unlawful for any person to violate any of the following provisions of this Chapter, which violations are hereby deemed not to be traffic infractions. Every person convicted of a violation of the following provisions of this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), exclusive of any court costs and surcharges, or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment:

(1) Section 107 of the Model Traffic Code, Obedience to police officers.

(2) Section 1101 of the Model Traffic Code, where the speed as driven is twenty (20) miles per hour or more over the lawful speed.

(3) Section 1103 of the Model Traffic Code, Minimum speed regulation.

(4) Section 1105 of the Model Traffic Code, Speed contest.

(5) Section 1401 of the Model Traffic Code, Reckless driving.

(6) Section 1402 of the Model Traffic code, Careless driving.

(7) Section 1409 of the Model Traffic Code, No insurance.

(8) Section 1413 of the Model Traffic Code, Eluding or attempting to elude a police officer.

(9) Section 1903 of the Model Traffic Code, Stopping for school buses.

(10) Any injury accident.

(11) Any single offense over four (4) points.

(12) Noninjury accidents where estimated damage exceeds two thousand dollars (\$2,000.00).

(17) Sec. 8-7-100. Loud and obnoxious noises. (Chapter 8, Article 7, Offenses Against Public Peace)

(a) Vehicle audio systems. No person shall, without prior authorization of the Chief of Police or City Manager, operate a speaker device or vehicle audio system in, upon or from any vehicle, upon any street, alley or sidewalk of the City, which has the effect of an unreasonable and offensive annoyance to other persons.

(b) Jake Brakes.

(1) The use of "Jake Brakes" or any other similar designated auxiliary braking system upon trucks and other motor vehicles is hereby prohibited within the confines or limits of the City.

(2) Any person who utilizes such braking system and thereby creates an annoying and disturbing noise within the City shall be guilty of a violation of this Section and shall be subject to a fine of not more than one hundred dollars (\$100.00) upon the first offense and a fine of not more than three hundred dollars (\$300.00) for each subsequent offense.

(c) Barking dog. It is unlawful for any owner or keeper of any dog to permit such dog, by loud and persistent or habitual barking, to disturb any person or neighborhood.

(d) Other noise. It is unlawful for any person to operate any machinery, equipment, loudspeakers, music or other noise from any residence, business or other property, which unreasonably disturbs any person or neighborhood between the hours of 10:00 p.m. and 6:00 a.m..

(18) Sec. 8-10-60. Penalty. (Chapter 8, Article 10, Controlled Substances)

Any persons convicted of a violation of this Article shall be subject to a fine within the jurisdiction of imposition by the Municipal Court.

(19) Sec. 8-12-100. Penalty for violations. (Chapter 8, Article 12, Fireworks)

Any person who violates any of the provisions of this Article, upon conviction thereof, shall be punished by revocation of any license or permit issued hereunder if a license or permit has been issued to such person, and in accordance with the provisions of Section 1-4-20 of this Code. Each day of sale prohibited under this Article shall be deemed a separate offense. Penalties under this Section may be imposed consecutively.

(20) Sec. 9-2-220. Notice, cost assessment. (Chapter 9, Article 2, Sidewalks)

(a) Whenever a sidewalk has been constructed in accordance with the provisions of this Article or repaired by the City, the City Council shall assess by resolution the costs of the

sidewalk with ten percent (10%) of the amount as penalty thereon to the lot or land abutting the sidewalk constructed.

(b) After the assessment has been made, the City Clerk shall give to the owner or owners of the lots ten (10) days' written notice of the same, which notice shall be personally served if the owner can be found within the City. Such notice shall also be published in a newspaper published in the City and shall contain the cost of the improvement and a description of the lands or lots upon which the cost is assessed and a date at which a special or regular meeting of the City Council will be held. The notice shall request the owner of the lot or land to appear before the City Council at such time for the purpose of making such objections as he or she may have to the justness and correctness of the amount assessed.

(c) If the owner is not found within the City, the notice shall also be further served upon him or her by sending a copy of the notice by certified mail to his or her last known post office address.

(21) Sec. 9-2-230. Cost assessment, collection. (Chapter 9, Article 2, Sidewalks)

(a) If the charges assessed pursuant to Section 9-2-220 above are not paid by the owner or owners within thirty (30) days after the time of the hearing provided for in Section 9-2-220, it may be certified by the City Clerk to the County Treasurer who shall collect the assessment, together with a ten-percent penalty for cost of collection, in the same manner as other taxes are collected.

(b) The laws of the State for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of the assessments.

(22) Sec. 10-1-20. Penalty provision. (Chapter 10, Article 1, General Provisions)

(a) It is unlawful for any person to violate any of the provisions in this Chapter or the rules, regulations and policies hereby adopted.

(b) Except as otherwise provided in Section 31-16-101, C.R.S., every person convicted of a violation of any provision of this Chapter or the regulations lawfully adopted by the City shall be punished pursuant to the provisions of Section 1-4-20 of this Code.

**(23) Sec. 10-2-70. Delinquent accounts; arrears penalty; service discontinuance.
(Chapter 10, Article 2, Fees, Charges and Billing Procedure)**

(a) Accounts in arrears will be charged a penalty of two percent (2%) per month of the arrears amount. Services may be discontinued on accounts thirty (30) days in arrears.

(b) Pest control, storm drain fees and base fees for water and sewer service shall continue to be billed, despite water discontinuance and arrearages. All arrearages shall constitute a perpetual lien upon any lots, lands, buildings or premises served or for which the service may be made and kept available as otherwise described in this Code.

(24) Sec. 12-15-380. Operations license. (Chapter 12, Article 15, Manufactured Home Single-Wide (MSW) District)

(a) License required. In order to operate a manufactured home single-wide park within the incorporated municipal boundary, a manufactured home single-wide park operations license must be secured by the park owner. Any person desiring to operate a manufactured home single-wide park must provide proof that the park complies with the provisions of this Article and any regulations adopted pursuant thereto. The person to whom a license for a manufactured home single-wide park is issued shall at all times operate the park in compliance with this Article and shall provide adequate supervision to maintain the park and its facilities and equipment in good repair and in clean and sanitary condition at all times.

(b) Application procedures. Any person desiring a manufactured home single-wide park operations license shall submit to the City Clerk an application for such license on a form to be provided by the City. The fee for the annual license is on file in the City Clerk's office.

(c) Expiration date. All licenses issued shall expire on December 31 of the year of issue. All inspections will be made at the time of application by the City Manager.

(d) Revocation. The City Council may revoke any license to maintain and operate a manufactured home single-wide park when the licensee has been found violating any provision of this Article. The license may be reissued if the circumstances leading to the violations have been remedied and the park is being maintained and operated in full compliance with the law.

(25) Sec. 12-15-390. Penalty. (Chapter 12, Article 15, Manufactured Home Single-Wide (MSW) District)

A violation of any of the provisions of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. In addition, after a citation has been issued, each day shall constitute a separate violation for the above-described fine. Further, the Municipal Court may enjoin the removal of signs which do not conform to the provisions of this Code.

(26) Sec. 12-20-60. Administration and enforcement. (Chapter 12, Article 20, Signs)

The following regulations apply to all signing and/or to the specific type of sign hereinafter indicated:

(1) Regulation and standards:

a. Sign permits shall not be issued for new signing at business locations where nonconforming signing exists.

b. Only signs specifically identified in this Article shall be eligible to receive a sign permit.

c. In all instances, any sign erected within the City must comply with the provisions of the International Building Code.

d. When a mural includes identification of an establishment or specifies such information, it shall have its area included in calculations pursuant to Section 12-20-70 below.

(2) Enforcement:

a. Unused or abandoned signs. An unused or abandoned sign is a sign which meets any of the following criteria:

1. A sign which identifies an establishment, goods or services which are no longer provided on the premises where the sign is located, except for historical signage as determined by City staff.

2. A sign which identifies a time, event or purpose which has passed or no longer applies.

3. An off-premises advertising sign which advertises an establishment, goods or services which no longer exist.

b. Penalties: A violation of any of the provisions of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. In addition, after a citation has been issued, each day a violation continues to occur shall constitute a separate violation for the above-described fine. Further, the Municipal Court may enjoin the removal of signs which do not conform to the provisions of this Article.

c. Removal of illegal signs:

1. Removal. Any illegal, nonconforming or unused sign which is not removed from the premises by the owner, user or property owner within the time frames prescribed in this Article shall be subject to removal by order of the City Manager in accordance with the provisions and procedures detailed in this Subparagraph c. Any prohibited sign, (unused sign) which is not removed from the premises by the owner, user or property owner within the time frames prescribed herein shall also be considered a violation of the provisions of this Article, and shall be subject to the penalty as set forth in Subparagraph b. above.

2. Removal by City. Upon failure of the owner, user or property owner to comply within the specified time requirements as set forth in this Article, the City Manager is hereby authorized to cause such illegal, nonconforming or unused sign to be removed, and any expense attendant thereto shall be paid by the owner, agent or person having the beneficial use of the building, structure or premises upon which the sign is located. If said removal or alteration expense remains unpaid for more than thirty (30) days after said removal or alteration is performed and a bill for the same was mailed to the owner, agent or person having beneficial use of the building, structure or premises, by first-class mail, postage prepaid, with a certificate of mailing, said unpaid charge shall constitute a lien upon the real estate and may be certified by the City Clerk to the County Treasurer as a lien assessment, to be applied and collected by the County Treasurer as an addition to the ad valorem taxes upon said property.

3. Storage of removed signs. Signs removed in compliance with this Subparagraph shall be stored by the City for thirty (30) days, during which they may be recovered by the owner only upon payment to the City for costs of removal and storage. If not recovered within the thirty-day period, the sign and supporting structure shall be declared abandoned and the title shall vest with the City. The costs of removal and storage (up to thirty [30] days) may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property.

(27) Sec. 12-21-60. Violations and penalties. (Chapter 12, Article 21, Adult-Oriented Businesses)

Violation of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. Each day of continued violation for unlawfully conducting an adult-oriented business shall be considered a separate offense. In the event of prosecution of a violation of this provision as a municipal code violation, conviction of a licensee for a violation under this provision may be grounds for revocation or nonrenewal of a license issued hereunder. Nothing contained in this Section shall be construed as negating or limiting the authority of the City from pursuing injunctive relief, restraining orders or similar or additional civil or criminal remedies in a court of competent jurisdiction.

(28) Sec. 14-1-50. Violation; penalty. (Chapter 14, Article 1, Building Code)

The following penalties herewith set forth in full shall apply to this Chapter unless otherwise provided elsewhere in this Chapter:

(1) It is unlawful for any person to violate any of the provisions of the codes adopted in this Chapter.

(2) Every person convicted of a violation of any provision adopted in this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment.

(29) Sec. 14-5-40. Violation; penalty. (Chapter 14, Article 5, Energy Conservation Code)

The following penalties herewith set forth in full, shall apply to this Article:

(1) It is unlawful for any person to violate any of the provisions of the code adopted in this Article.

(2) Every person convicted of a violation of any provision of this Article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or incarceration not exceeding ninety (90) days, or by both such fine and incarceration.

(3) Each day of continued violation of this Article shall be considered a separate offense.

(30) Sec. 14-6-150. Recovery of cost of repair or demolition. (Chapter 14, Article 4, Dangerous Building Code)

(a) Account of expense, filing of report. The Director of Public Works shall keep an itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of Paragraph 14-6-130(b)(3) of this Article. Upon the completion of the work of repair or demolition, the 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 Subsection 14-6-80(c) of this Article.

(b) Protests and objections. Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk within ten (10) days from service of notice. 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 of receipt. The Clerk shall present such protests or objections to the Board of Adjustment, and no other protests or objections shall be considered.

(c) Hearing of protests. The Board of Adjustment shall conduct a hearing within thirty (30) days from the receipt of the protest, may make such revision, correction or modification in the report or the charge as it may deem just; and, when the Board of Adjustment 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 Board of Adjustment on the report and the charge and on all protests or objections shall be final and conclusive, subject to district court review.

(d) Personal obligation or special assessment.

(1) General. The Board of Adjustment may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

(2) Personal obligation. If the Board of Adjustment orders that the charge be made 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.

(3) Special assessment. If the Board of Adjustment orders that the charge shall be assessed against the property, it shall confirm the assessment and cause the same to be recorded on the assessment roll; and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

(e) Contest. 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.

(f) Authority for installment payment of assessments with interest. The Board of Adjustment, in its discretion, may determine that assessments in amounts of five hundred

dollars (\$500.00) or more shall be payable in up to, but not to exceed, five (5) equal annual installments. The Board of Adjustment's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

(g) Lien of assessment.

(1) Priority. Immediately upon its being placed on the assessment roll, 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 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 property taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

(2) 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 seven percent (7%) per annum from and after said date.

(3) Report to County Assessor and County Treasurer; addition of assessment to tax bill. After confirmation of the report, certified copies of the assessment shall be given to the City Assessor and the City Treasurer/Finance Director, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(4) Collection of assessment; penalties for foreclosure. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties, procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment. If the Board of Adjustment has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedures for sale as provided for ordinary property taxes.

(5) Repayment of Repair and Demolition Fund. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the Finance Director, who shall credit the same to the Repair and Demolition Fund.

Section 5. Additions or amendments to the Code, when passed in the form as to indicate the intention of the City to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

Section 7. Due to pending land use issues and numerous offense issues currently pending in the City, the City Council finds that this Ordinance is necessary to the immediate preservation of the

public peace, health, and safety, and shall become effective and be enforced from and after five (5) days after final publication of this Ordinance.

INTRODUCED this ____ day of _____, 2009.

CITY OF MONTE VISTA , COLORADO

ATTEST: (signature)
Don Schall, Mayor

(signature)
Lucille M. Duran, City Clerk

(SEAL)

READINGS

Approved and passed First Reading: July 2, 2009.
First Publication: July 15, 2009.

Passed Second and Final Reading: August 6, 2009.
Second and Final Publication: August 19 15, 2009

CERTIFICATION

I hereby certify that the within Ordinance was first introduced and read by title at a regular meeting of the Monte Vista City Council on July 2, 2009, that Notice of Hearing for consideration of adoption was published in the Monte Vista Journal, a legal newspaper of the City of Monte Vista on July 15, 2009, and was again published on July 22, 2009. A Public Hearing was held before the Monte Vista City Council on August 6, 2009, prior to adoption of said Ordinance; that said Ordinance was first published in full in said Monte Vista Journal on the 15th day of July, 2009, and that Ordinance was again published in full in said Monte Vista Journal after passage of the same on the 19th day of August, 2009.

/s/ _____
Lucille Duran, City Clerk

(SEAL)

APPROVED AS TO FORM:

/s/ _____
Eugene L. Farish, City Attorney

CITY OF MONTE VISTA
CODE TABLE OF CONTENTS

CODE TITLE PAGE.....	M-i
PREFACE	M-iii
ADOPTING ORDINANCE	M-v
CODE TABLE OF CONTENTS.....	M-xxi
Chapter 1 General Provisions.....	1-i
Article 1 Code	
Article 2 Definitions and Usage	
Article 3 General	
Article 4 General Penalty	
Article 5 Inspections	
Article 6 Seal	
Chapter 2 Administration	2-i
Article 1 Elections	
Article 2 City Council	
Article 3 Appointed Officers	
Article 4 Personnel	
Article 5 Municipal Court	
Article 6 Police Department	
Article 7 Emergency Management	
Article 8 Unclaimed Property	
Article 9 Hearing Procedures	
Article 10 Planning and Zoning Commission	
Article 11 Board of Adjustment	
Appendix	
<i>Appx 2-A Administrative Fees</i>	
<i>Appx 2-B City Council Rules of Procedure</i>	
<i>Appx 2-C Personnel Rules and Regulations</i>	
Chapter 3 Revenue and Finance.....	3-i
Article 1 General and Special Funds	
Article 2 Sales Tax	
<i>Division 1 Generally</i>	
<i>Division 2 Imposition and Collection</i>	
Article 3 Utility Occupation Tax	
Article 4 Bidding, Purchasing and Sale of City Property	
Appendix	
<i>Appx 3-A Bidding and Purchasing Policy</i>	
Chapter 4 Business Licenses and Regulations.....	4-i
Article 1 Business Licenses	

	Article 2	Alcoholic Beverages	
	Article 3	Amusements	
	Article 4	Contractors	
	Article 5	Franchises	
	Article 6	Gas Fitters	
	Article 7	Peddlers, Solicitors and Transient Merchants	
		<i>Division 1 Generally</i>	
		<i>Division 2 License</i>	
	Article 8	Security Services	
	Article 9	Tattoo Establishments	
		<i>Division 1 Generally</i>	
		<i>Division 2 License</i>	
		<i>Division 3 Regulations</i>	
Chapter 5	Nuisances		5-i
	Article 1	Nuisances Generally	
	Article 2	Abatement of Nuisances	
Chapter 6	Animal Regulations		6-i
	Article 1	Animals in General	
	Article 2	Dogs	
	Article 3	Impoundment	
	Article 4	Rabies Control	
Chapter 7	Vehicles and Traffic.....		7-i
	Article 1	Model Traffic Code	
Chapter 8	General Offenses.....		8-i
	Article 1	General Provisions	
	Article 2	Governmental Operations	
	Article 3	Obstructing Justice	
	Article 4	Offenses Against Property	
		<i>Division 1 Generally</i>	
		<i>Division 2 Private Property</i>	
		<i>Division 3 Public Property</i>	
	Article 5	Offenses Against the Person	
	Article 6	Offenses Against Public Decency	
	Article 7	Offenses Against Public Peace	
	Article 8	Offenses by or Against Minors	
	Article 9	Alcoholic Beverages	
	Article 10	Controlled Substances	
	Article 11	Smoking Regulations	
	Article 12	Fireworks	
	Article 13	Weapons	
	Article 14	Offenses Relating to Animals	
Chapter 9	Streets, Sidewalks and Public Property.....		9-i
	Article 1	In General	
	Article 2	Sidewalks	

	<i>Division 1 Standards and Specifications</i>	
	<i>Division 2 Construction</i>	
Article 3	Trees and Shrubbery	
Article 4	House Numbers	
Article 5	Monte Vista Municipal Airport	
Article 6	Excavations	
Chapter 10	Utilities	10-i
Article 1	General Provisions	
Article 2	Fees, Charges and Billing Procedures	
Article 3	Water Service	
Article 4	Cross-Connection Control	
Article 5	Garbage and Refuse	
Article 6	Sewer Activity Enterprise	
Appendix		
	<i>Appx 10-A Wastewater Utility Rules and Regulations</i>	
	<i>Appx 10-B Utility Rates and Charges</i>	
Chapter 11	Annexations	11-i
Article 1	Annexation Procedures	
Chapter 12	Zoning	12-i
Article 1	General Provisions	
Article 2	Board of Adjustment	
Article 3	Administration	
Article 4	Amendments	
Article 5	Zoning District Regulations	
Article 6	Rural (RU) District	
Article 7	Residential Estate (RE) District	
Article 8	Residential Low-Density (RL) District	
Article 9	Residential Medium-Density (RM) District	
Article 10	Residential High-Density (RH) District	
Article 11	Manufactured Homes (Mfg-H) District	
Article 12	Commercial Highway (CH) District	
Article 13	Commercial Business (CB) District	
Article 14	Industrial (I) District	
Article 15	Manufactured Home Single-Wide (MSW) District	
Article 16	Overlay Districts	
	<i>Division 1 Historic Protection Overlay District</i>	
	<i>Division 2 1st Avenue Overlay District</i>	
	<i>Division 3 Central Business Overlay District</i>	
Article 17	Supplementary Regulations	
Article 18	Planned Unit Development	
Article 19	Off-Street Parking and Loading	
Article 20	Signs	
Article 21	Adult-Oriented Businesses	
Article 22	Flood Prevention and Protection	
	<i>Division 1 General Provisions</i>	
	<i>Division 2 Administration</i>	

Division 3 Flood Hazard Reduction

Chapter 13	Subdivisions.....	13-i
	Article 1 Definitions	
	Article 2 In General	
	Article 3 Administration	
	Article 4 Plat Requirements and Procedures	
	<i>Division 1 Sketch Plan</i>	
	<i>Division 2 Preliminary Plat</i>	
	<i>Division 3 Final Plat</i>	
	Article 5 Design Standards	
	Article 6 Improvements	
Chapter 14	Building Regulations	14-i
	Article 1 Building Code	
	Article 2 Residential Code	
	Article 3 Plumbing Code	
	Article 4 Mechanical Code	
	Article 5 Energy Conservation Code	
	Article 6 Dangerous Building Code	
	Article 7 Miscellaneous Provisions	
	Appendix	
	<i>Appx 14-A Building and Permit Fees</i>	
TABLES		
	Code Comparison Table	T-1
	Disposition of Ordinances Table	T-21
	Table of Up-to-Date Pages	T-101
INDEX		I-1

-A-

APPROPRIATION

Assessments	
certificate of assessment	Sec. 52
existing law, adoption of	Sec. 51
Budget, annual estimate	Sec. 53
Funds	Sec. 50
Taxes	
appropriation	Sec. 54
no liability without	Sec. 55
collection	Sec. 56
levy	Sec. 54

-B-

BONDS

City employees	Sec. 42
Continuing in transition	Sec. 97
Disposal of	Sec. 59
Funding	Sec. 60
Limitation of indebtedness	Sec. 58
Refunding	Sec. 61
Terms of	Sec. 59

BOUNDARIES

Boundaries	Sec. 1

BUDGET

Annual estimate	Sec. 53

-C-

CHARTER

Alcoholic beverage licenses	Sec. 100
Amendment submission	Sec. 98
Effective date	Sec. 92
Legislation by the People	Sec. 12
Penalty for violation	Sec. 95
Reservation of power	Sec. 99
Transition	Sec. 92
continuing bonds	Sec. 97
ordinances to continue in force	Sec. 94
outgoing officers	Sec. 93

CITY	
Name, boundaries	Sec. 1
Powers, right, liabilities	Sec. 2
CITY COUNCIL	
Alcoholic liquor licenses	Sec. 100
Compensation, no extra	Sec. 43
Councilors	Sec. 14
judges of their election	Sec. 20
qualifications	Sec. 15
salaries	Sec. 17
term of office	Sec. 16
vacancies	Sec. 18
Legislation by the people	Sec. 12
initiative, referendum	Sec. 13
Legislative powers	Sec. 19
Mayor	Sec. 33
no veto	Sec. 34
Meetings	Sec. 22
public meetings of electors	Sec. 89
Monte Vista Day establishment	Sec. 90
No extra compensation	Sec. 43
Ordinances	Sec. 24
proof	Sec. 28
publication	Sec. 25
Clerk's certificate	Sec. 29
fees	Sec. 26
in pamphlet form	Sec. 27
record	Sec. 30
Powers	
contractual	Sec. 32
general	Sec. 31
Recall	
petition	Sec. 10
procedure	Sec. 11
Record of ordinances	Sec. 30
Resolutions	Sec. 24
Rules	Sec. 21
COMMISSION OF PUBLIC CHARITIES AND PUBLIC WELFARE	
Establishment authority	Sec. 88
CONTRACTS	
See also FRANCHISES	
Books of account	Sec. 87
Contracts for service	Sec. 81
Rates and fares, power to regulate	Sec. 82

-E-

ELECTIONS

General municipal elections	Sec. 3
General regulations	Sec. 8
Judges and clerks	Sec. 5
Officers	
election of	Sec. 7
nominations of	Sec. 6
Precincts	Sec. 9
Registration	Sec. 4
Special municipal elections	Sec. 3

EMPLOYEES, CITY

Bonds	Sec. 42
City Attorney	Sec. 40
City Clerk	Sec. 23
certificate of publication	Sec. 29
City Manager	Sec. 35
powers and duties	Sec. 36
salary	Sec. 37
City Treasurer	Sec. 23
Compensation, no extra	Sec. 43
Municipal Judge	Sec. 38
jurisdiction, powers, duties and procedures	Sec. 39
No extra compensation	Sec. 43
Oath of office	Sec. 41

-F-

FINANCE

Annual general City estimate	Sec. 53
Assessments	
certificate of assessment	Sec. 52
existing law, adoption of	Sec. 51
Audit by accountant	Sec. 63
Bills	Sec. 47
checks, issuance of	Sec. 48
Bonds	
disposal of	Sec. 59
funding	Sec. 60
limitation of indebtedness	Sec. 58
refunding	Sec. 61
terms of	Sec. 59
Bookkeeping, method of	Sec. 64
Budget, annual estimate	Sec. 53
Cash basis	Sec. 49
Claims against City	Sec. 45
Financial statements	Sec. 62

Fiscal year	Sec. 44
Funds	Sec. 50
depository for public funds	Sec. 65
Purchasing and sales agent	Sec. 46
Special statutes continued in force	Sec. 57
Taxes	
appropriation	Sec. 54
no liability without	Sec. 55
collection	Sec. 56
levy	Sec. 54
 FIRE DEPARTMENT	
Public safety	Sec. 69
 FRANCHISES	
See also PUBLIC UTILITIES	
Additional matter, right to insert	Sec. 79
Books	
of account	Sec. 87
of record and reference	Sec. 86
Conditions	Sec. 74
Consent of owner	Sec. 78
Contracts for service	Sec. 81
Extensions	Sec. 77
Grant of franchise	Sec. 71
not exclusive	Sec. 72
Inspection by City	Sec. 85
No assignment	Sec. 73
Ordinance in plain terms	Sec. 83
Provide for safety, etc.	Sec. 84
Purchase price	Sec. 76
Rates and fares, power to regulate	Sec. 82
Regulations	Sec. 80
Reports to City	Sec. 85
Safety provisions	Sec. 84
Supervision of City	Sec. 85
Termination	Sec. 75

-G-

 GENERAL PROVISIONS	
Civic beauty	Sec. 91
Misdemeanor definition	Sec. 96
Monte Vista Day	Sec. 90
Name, boundaries	Sec. 1
Penalty for violation of Charter	Sec. 95
Powers, right, liabilities	Sec. 2

-H-

HEALTH	
Health officer	Sec. 68
HIGHWAYS	
Generally	Sec. 66

-I-

INITIATIVE, REFERENDUM	
Generally	Sec. 13
Petition	Sec. 12

-L-

LEGISLATION BY THE PEOPLE	
Generally; petition	Sec. 12
Initiative and referendum	Sec. 13
LIGHTING	
Generally	Sec. 66

-M-

MEETINGS	
City Council	Sec. 22
Public meetings of electors	Sec. 89
MONTE VISTA DAY	
Establishment by City Council	Sec. 90

-O-

ORDINANCES	
Continue during transition	Sec. 94
Franchises	Sec. 83
Generally	Sec. 24
Proof	Sec. 28
Publication	Sec. 25
Clerk's certificate	Sec. 29

fees	Sec. 26
in pamphlet form	Sec. 27
Record	Sec. 30

-P-

POLICE DEPARTMENT	
Generally	Sec. 70
PUBLIC SAFETY	
Fire Department	Sec. 69
Health	Sec. 68
Highways	Sec. 66
Lighting	Sec. 66
Police Department	Sec. 70
Public safety	Sec. 69
Sewers	Sec. 66
Water supply	Sec. 67
Water works	Ch. 60
PUBLIC UTILITIES	
See also FRANCHISES	
Sewer	Sec. 66
Supervision, reports, inspection	Sec. 85
Water	Sec. 67
Water works	Sec. 66

-R-

RECALL FROM OFFICE	
Petition	Sec. 10
Procedure	Sec. 11
REFERENDUM	
See INITIATIVE, REFERENDUM	
RESOLUTIONS	
Generally	Sec. 24

-S-

SEWERS	
Generally	Sec. 66

-T-

TAXES

Appropriation	Sec. 54
no liability without	Sec. 55
Collection	Sec. 56
Levy	Sec. 54

-W-

WATER

Water supply	Sec. 67

WATER WORKS

Generally	Sec. 66

CITY OF MONTE VISTA

HOME RULE CHARTER

1922

Published by

COLORADO CODE PUBLISHING COMPANY
Fort Collins, Colorado

CITY OF MONTE VISTA
CHARTER TABLE OF CONTENTS

Article I	Name, Boundaries, Powers, Rights and Liabilities
	Sec. 1 Name, Boundaries
	Sec. 2 Powers, Rights, Liabilities
Article II	Elections
	Sec. 3 General and Special Municipal Elections
	Sec. 4 Registration
	Sec. 5 Judges and Clerks
	Sec. 6 Nominations of Officers
	Sec. 7 Election of Officers
	Sec. 8 General Election Regulations
	Sec. 9 Election Precincts
Article III	Recall from Office
	Sec. 10 [Petition]
	Sec. 11 [Procedure]
Article IV	Direct Legislation by the People
	Sec. 12 [Generally; Petition]
	Sec. 13 [Initiative and Referendum]
Article V	Elective Officers and Employees
	Sec. 14 Councilors
	Sec. 15 Qualifications
	Sec. 16 Term of Office
	Sec. 17 Salaries
	Sec. 18 Vacancies
	Sec. 19 Legislative Powers
	Sec. 20 Judges of Their Election
	Sec. 21 Rules
	Sec. 22 Meetings
	Sec. 23 Clerk and Treasurer
	Sec. 24 Ordinances and Resolutions
	Sec. 25 Publication
	Sec. 26 Publication Fees
	Sec. 27 [Publication in Pamphlet Form]
	Sec. 28 Proof of Ordinance
	Sec. 29 Clerk's Certificates
	Sec. 30 Record of Ordinances
	Sec. 31 General Powers
	Sec. 32 Contractual Powers
	Sec. 33 Mayor
	Sec. 34 No Veto
	Sec. 35 City Manager
	Sec. 36 Powers and Duties
	Sec. 37 Salary
	Sec. 38 [Municipal Judge]
	Sec. 39 Jurisdiction, Powers, Duties and Procedures
	Sec. 40 City Attorney
	Sec. 41 Oath of Office
	Sec. 42 Bonds

	Sec. 43	No Extra Compensation
Article VI	Finance, Appropriation and Taxation	
	Sec. 44	Fiscal Year
	Sec. 45	Claims Against City
	Sec. 46	Purchasing and Sales Agent
	Sec. 47	Bills
	Sec. 48	Issuance of Checks
	Sec. 49	Cash Basis
	Sec. 50	Funds
	Sec. 51	Adoption of Existing Law
	Sec. 52	Certificate of Assessment
	Sec. 53	Annual General City Estimate
	Sec. 54	Tax Levy and Appropriation
	Sec. 55	No Liability Without Appropriation
	Sec. 56	Collection of Taxes
	Sec. 57	Special Statutes Continued in Force
	Sec. 58	Limitation of Indebtedness
	Sec. 59	Terms of Bonds, Disposal of Bonds
	Sec. 60	Funding Bonds
	Sec. 61	Refunding Bonds
	Sec. 62	Financial Statements
	Sec. 63	Audit by Accountant
	Sec. 64	Method of Bookkeeping
	Sec. 65	Depository for Public Funds
Article VII	Highways, Health, Water Works, Sewers, Lighting and Public Safety	
	Sec. 66	Highways, Sewers, Water Works and Lighting
	Sec. 67	Water
	Sec. 68	Health
	Sec. 69	Public Safety
	Sec. 70	Police Department
Article VIII	Franchises, Public Utilities and Contracts	
	Sec. 71	[Grant]
	Sec. 72	No Exclusive Grant
	Sec. 73	No Assignment
	Sec. 74	Conditions
	Sec. 75	Termination
	Sec. 76	Purchase Price
	Sec. 77	Extensions
	Sec. 78	Consents
	Sec. 79	Right to Insert Additional Matter
	Sec. 80	Regulations
	Sec. 81	Contracts for Service
	Sec. 82	Power to Regulate Rates and Fares
	Sec. 83	Ordinance in Plain Terms
	Sec. 84	Franchise Provide for Safety, Etc.
	Sec. 85	City Maintain General Supervision, Reports, Inspection
	Sec. 86	Books of Record and Reference
	Sec. 87	Books of Account
Article IX	Commissions, Boards and General Provisions	
	Sec. 88	Charities Commission and Public Welfare
	Sec. 89	Public Meetings of Electors
	Sec. 90	Monte Vista Day

Sec. 91	Civic Beauty
Sec. 92	[When Effective; Transition]
Sec. 93	Outgoing Officers
Sec. 94	Present Ordinances Continue in Force
Sec. 95	Penalty for Violation
Sec. 96	Definition of Misdemeanor
Sec. 97	Continuing Bonds, Etc.
Sec. 98	Submission of Charter Amendments
Sec. 99	Reservation of Power
Sec. 100	Alcoholic Liquors

Charter Comparative Table

Charter Index

***Editor's note**—Printed herein is the Charter of the Town of Monte Vista adopted in a Charter convention on March 28, 1922, and by referendum on March 28, 1922. Style and capitalization have not been made uniform. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section.

State law references—Home rule, Colorado Constitution, Article XX, Section 6; Charter adoption procedure, Colorado Constitution, Article XX, Section 9; procedure to amend charters, Section 31-2-210, C.R.S.

ARTICLE I

Name, Boundaries, Powers, Rights and Liabilities

Sec. 1. Name, Boundaries.

The municipal corporation now existing and known as the City of Monte Vista, 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 [a] manner authorized by law.

Sec. 2. Powers, Rights, Liabilities.

(a) By the name of the City of Monte Vista, the city:

(1) 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 Monte Vista and shall assume, manage and dispose of all trusts in any way connected therewith.

(2) 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 Monte Vista; 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.

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

(4) Shall have the power, within or without its territorial limits, to construct, condemn and purchase, acquire, lease, and to maintain, conduct and operate waterworks, light plants, telephone systems, power plants, transportation systems, heating plants, and any other public utilities or works or ways, 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 majority of votes cast by the taxpaying electors, at any special or general election, in such amounts as is provided by state law, and as here provided.

(b) 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.

(c) The City shall also have all powers, privileges and functions which, by or pursuant to the Constitution of this state have been or shall be granted to or exercised by any city of the first class, or second class. Provided, however, that where the powers, which have been or shall hereafter be granted as

aforesaid, conflict, the City Council shall have power by ordinance to determine which power shall be exercised by the City.

(d) The form of government provided in this article shall be known as the "Council-Manager Plan," and shall consist of one Mayor and four Councilors who shall be elected at large in the manner hereinafter provided, and shall constitute the City Council. The City Council shall constitute the governing body with powers as hereinafter provided; to pass ordinances, to adopt regulations and to appoint a chief administrative officer to be known as the "City Manager," and exercise all powers hereinafter provided. (Ord. No. 488, election 11-7-67; Charter Res. No. 8-2004 §I, election 11-2-04)

ARTICLE II

Elections

Sec. 3. General and Special Municipal Elections.

A municipal election shall be held in the City of Monte Vista on the first Tuesday in November in every odd-numbered year and shall be known as the "General Municipal Election". All other Municipal Elections that may be held shall be known as "Special Municipal Elections". (Charter Res. No. 8-2004 §III, election 11-2-04)

Sec. 4. Registration.

No person shall be permitted to vote at any municipal election without having been registered. The registration shall be the same as is now or may hereafter be provided by the general laws of the state, except as the City Council may otherwise by ordinance provide.

State law reference—Qualifications and registration of electors, Section 31-10-201, et seq., C.R.S.

Sec. 5. Judges and Clerks.

The judges and clerks of any election shall be selected from a list of persons, two each of whom may be proposed by each candidate for each precinct. All such lists shall be proposed in writing at least fifteen days before election. In case an insufficient number of names are so proposed, the City Council may select such number as may be necessary in order to provide three receiving judges and in the discretion of the City Council, three counting judges and two clerks for each of said bodies, and as otherwise provided by the laws of Colorado.

Sec. 6. Nominations of Officers.

The mode of nomination of all elective officers of the City to be voted for at any municipal election shall be as is now provided by the laws of Colorado, for independent nominations.

Sec. 7. Election of Officers.

The election of all elective officers of the City shall be as provided by the laws of the State of Colorado, except as otherwise provided for in this charter.

State law reference—Elections, Section 31-10-101, et seq., C.R.S.

Sec. 8. General Election Regulations.

The provisions of any state law, now or hereafter in force, except as the Council may otherwise by ordinance provide, relating to the qualifications and registration of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of elections, except as otherwise provided in this article, so far as they may be applicable, shall govern all municipal elections; provided, also, that the City Council shall meet as a canvassing board and duly canvass the election returns within two days after any municipal election. Whenever any member of the Council is a candidate for re-election, the City Council shall appoint some Justice of the Peace or Notary Public of said city to take the place of said candidate upon said canvassing board as a member thereof.

Sec. 9. Election Precincts.

The entire incorporated City of Monte Vista shall constitute one election precinct for all City election purposes and such election shall be conducted and held at the City Hall therein until such time as the City Council finds it necessary to divide the City into more precincts and provide additional polling places and if they do so, then such candidate shall name but one person for each precinct's Board of Election.

ARTICLE III

Recall From Office*

Sec. 10. [Petition.]

Every elective and appointive City Officer of the City of Monte Vista may be recalled from office at any time by the electors of the City of Monte Vista by a petition filed with the City Clerk equal in number to twenty-five (25) per centum of the entire vote cast at the last preceding general municipal election, provided that the signatures of at least fifty (50) qualified electors of said City to the said petition shall be required.

Sec. 11. [Procedure.]

The procedure hereunder to effect the recall of an elective or appointive officer, shall be as far as applicable by the method pointed out in Article XXI of the Constitution of the State of Colorado, known as "Recall from Office" with power in the City Council to provide by ordinance such other and further procedure as it may deem expedient.

* **State law reference**—Recall, Section 31-4-501, et seq., C.R.S.

ARTICLE IV

Direct Legislation by the People**

Sec. 12. [Generally; Petition.]

Any proposed ordinance, charter, or charter amendment may be submitted to the City Council of the City of Monte Vista, by petition therefor of qualified electors equal in number to at least fifteen (15) per centum of the last preceding vote for all candidates for Governor. Such proposed ordinance, charter or charter amendment shall be adopted without alteration by said City Council within twenty (20) days after such petition is filed, or the City Council shall refer such proposed ordinance, charter or charter amendment in the form petitioned for to the qualified electors at the next municipal election to be held not less than sixty (60) days after such petition is filed, and in case a municipal election follows in a shorter time than sixty (60) days, then said petition shall contain a request for a special election and must be signed for that purpose by qualified electors equal in number to at least fifteen (15) per centum of the vote of the preceding election for Governor, in which event the City Council shall refer such proposed ordinance, charter or charter amendment in the form petitioned for to the qualified electors at a special election which shall be called within thirty (30) days, and held not less than sixty (60) days nor more than ninety (90) days after such petition is filed unless a special election for some other purpose or a general election is held within said period of time, in which case such proposed ordinance, charter or charter amendment shall be submitted to a vote at such election.

Alternative ordinances, charters or charter amendments may be submitted at the same election and if two or more conflicting measures be approved by the people, then the one which received the greater number of affirmative votes shall be adopted in all particulars, as to which there is a conflict.

Sec. 13. [Initiative and Referendum.]

The law known as "Initiative and Referendum" Session Laws, 1913, Colorado, Page 310 and all laws amendatory thereto, so far as applicable shall govern the procedure and form of Direct Legislation by the People of the City of Monte Vista, with power in the City Council to make and publish such ordinances as may be needful to carry out the object and intent of this Article.

ARTICLE V

Elective Officers and Employees

Sec. 14. Councilors.

The elective officers of the City shall consist of one Mayor and four City Councilors who shall constitute the City Council. The Mayor and each of said City Councilors shall be elected, at large, by the qualified electors of the City. (Ord. No. 618, 10-10-89, election 11-7-89; Charter Res. No. 8-2004 §I, election 11-2-04)

** State law reference—Initiative and referendum, Section 1-40-101, C.R.S.

Sec. 15. Qualifications.

No person shall be eligible to hold the office of Councilor or Mayor of the City unless he or she be a qualified elector in the City in accordance with State Statutes. (Ord. No. 563, election 6-5-84; Charter Res. No. 8-2004 §I, election 11-2-04)

Sec. 16. Term of Office.

The term of office of the Mayor and City Councilors shall commence on the first City Council meeting in January, following their election, respectively, and shall be for a period of four (4) years and until their successors are duly elected and qualified. The terms of office of Mayor and City Councilors shall be designated by the letters A, B, C, D, and E, respectively, and they shall be elected or appointed as follows:

Terms B and C Vacancies. At the first meeting of the City Council in 1968, or soon thereafter as may be possible, the City Council shall appoint one City Councilor, as filling a vacancy, until the next general election, in Term B, beginning January 1, 1968 and ending December 31, 1971, and shall appoint one City Councilor as filling the first half of a vacancy in Term C, expiring December 31, 1973. At the General Municipal Election to be held on the first Tuesday after the first Monday in November, 1969 the remainder of said vacancy in Term B shall be filled at the general election.

Terms A and B. At the General Municipal Election to be held on the first Tuesday after the first Monday in November, 1971, and every four years thereafter, and on the first Tuesday in November every four years after November 2004, there shall be elected two City Councilors for the term of four years each and until their successors are duly elected and qualified.

Terms C, D and E. At the General Municipal Election to be held on the first Tuesday after the first Monday in November, 1969, and on the first Tuesday in November every four years after November 2005, there shall be elected three City Councilors for the term of four years each and until their successors are duly elected and qualified.

Each City Councilor shall qualify within ten days after his or her election, by filing his or her oath of office, and official bond in such amount as the City Councilors may by resolution, from time to time require or as otherwise provided in this Charter.

No person shall hold the position of City Councilor (or the office of Mayor) for more than four consecutive, 4-year terms notwithstanding the provisions of Article XVIII, Section 11 of the Colorado Constitution. (Ord. No. 918, election 11-7-67; Ord. No. 618, 10-10-89, election 11-7-89; Ord. No. 732, §1, 12-7-00; Charter Res. No. 8-2004 §§I, II, election 11-2-04)

Sec. 17. Salaries.

A base salary of One Hundred Fifty Dollars (\$150) per month shall be set, effective January 1, 1986, for all Councilors except the Mayor, whereas his salary shall be Two Hundred Dollars (\$200) per month; and such base salary shall be adjusted at the end of each five (5) year period after January 1, 1986, to reflect any similar percentage of increase made to Colorado State Civil Employees. (Election 11-5-85; Charter Res. No. 8-2004 §I, election 11-2-04)

Sec. 18. Vacancies.

If a vacancy occurs in the office of any such Councilor or Mayor the remaining members of the City Council shall appoint an eligible person to fill such vacancy until his successor shall have been elected and qualified. A vacancy shall exist when a Councilor or Mayor fails to qualify within ten (10) days after notice of his election; dies, resigns, removes from the City, is convicted of felony or judicially declared a lunatic. (Charter Res. No. 8-2004 §I, election 11-2-04)

Sec. 19. Legislative Powers.

The City Council shall, except as otherwise provided by this charter, be vested with all the legislative powers of the City.

Sec. 20. Judges of Their Election.

The City Council shall be the judge of the election and qualification of its own members, subject to review by the courts in case of contest, as by Statutes of Colorado in such cases provided.

Sec. 21. Rules.

The City Council shall determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at its meetings.

Sec. 22. Meetings.

All meetings of the City Council shall be convened at the City Hall. Any such meetings so convened may, upon a majority vote of the City Council, be removed to any other location suitable to address the circumstances of the meeting. Regular meetings shall be held on the first Thursday in each month. The City Council shall prescribe the hour of its meetings and the manner in which special meetings shall be called. A majority of all the members shall constitute a quorum to do business, but a less number may adjourn to a definite date. The City Council shall sit with open doors at all legislative sessions and shall keep a journal of its proceedings which shall be a public record. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 23. Clerk and Treasurer.

The City Council shall appoint a City Clerk and fix his compensation, who may be named from among their number, and in its discretion may require the City Manager to keep the records, and perform the duties of the said office under the direction and at the request of the City Clerk so named, or may appoint the City Manager as City Clerk of the said City. The City Council may also appoint a City Treasurer and fix his compensation and duties.

State law reference—Clerk, Section 13-10-108, C.R.S.

Sec. 24. Ordinances and Resolutions.

In all regular meetings the City Council shall act by ordinance, resolution or motion, and at special meetings, by resolution or motion.

Sec. 25. Publication.

Every ordinance, after the same shall have passed first reading by a majority vote of the City Council, shall be published once in full in a newspaper of the City or generally distributed in a leaflet or pamphlet form, at least ten (10) days before its final passage. Within ten (10) days after such final passage it shall be again published once in a newspaper or generally distributed in a leaflet or pamphlet form. The proof of such publication by pamphlet or leaflet form shall be evidenced by the affidavit of the City Clerk that the ordinance in pamphlet or leaflet form was generally distributed.

State law reference—Publication of ordinances, Section 31-16-106, C.R.S.

Sec. 26. Publication Fees.

All election notices or lists of nominations for office, department reports, ordinances, charters or charter amendments, advertising, publicity affairs, or other publications required or authorized by this Charter, by general law, or by any ordinance of the City to be made in any newspaper and all such publications for which the City may be liable, shall be paid for by the City at such rates as shall not in any event, exceed the usual rates for like work. No bill shall be rendered to, or paid by, the City for such advertising or printing in excess of the said usual rates, provided that at no time such rates shall exceed the legal rate.

Sec. 27. [Publication in Pamphlet Form.]

When pamphlet form is used for publication, the City Manager shall publish three times in one newspaper of the City, at least five (5) days before such publication, the fact that such pamphlet or leaflet will be issued, stating briefly the subject to be covered, and within one (1) day of the time for handling same for publication, any individual, organization or association may insert in such pamphlet or leaflet any matter, either in favor of or opposed to the proposition in the pamphlet or leaflet, in such manner as is provided by the Statutes of Colorado relating to pamphlet advertising.

Sec. 28. Proof of Ordinance.

All ordinances passed by the City Council in whatsoever form shall be certified to by the City Clerk.

Sec. 29. Clerk's Certificates.

The certificate attached to and published with ordinances which have passed first reading shall be in form as follows, appropriately filling the several blanks, viz:

"Passed first reading this ___ day of _____, 20__."

City Clerk

(SEAL)

The certificate attached to and published with ordinances which have been finally passed shall be in form as follows, appropriately filling the several blanks, viz:

"Passed final reading this ___ day of _____, 20__."

City Clerk

(SEAL)

The certificate necessary to validate ordinances published in pamphlet form, which shall be made after the said ordinances have been generally distributed as herein provided and attached to the original ordinance in the ordinance book, shall be as follows:

CITY OF MONTE VISTA)
COUNTY OF RIO GRANDE) ss.
STATE OF COLORADO)

_____, City Clerk, being first duly sworn, upon his oath, deposes, says and certifies that the foregoing ordinance passed first reading on the _____ day of _____, 20__ passed final reading on the _____ day of _____, 20__ and after its said final passage was generally distributed throughout the City of Monte Vista.

Subscribed and sworn to before me this _____ day of _____ A.D. 20__.

City Clerk

Notary Public

Sec. 30. Record of Ordinances.

All ordinances shall within three days after the date of taking effect be recorded in a book kept for that purpose marked "Ordinances of the City of Monte Vista" and shall be authenticated in said book by the signature of the Mayor and the City Clerk, and shall be consecutively numbered following the latest number now in force. The ordinances adopted under the initiative provisions of this charter shall be separately numbered and recorded commencing with "People's Ordinance No. 1."

Sec. 31. General Powers.

The City Council shall have, in addition to the powers herein granted the power, right and authority from time to time as in its discretion the exigencies of City administration may require, to appoint advisory committees of duly qualified electors of the said City, or otherwise, to assist by counsel or other effort in the solution of City problems, but such committees shall act without compensation and shall have no vote on the Council, and said City Council shall have all the other and further powers herein granted and all power given by the Constitution and Statutes of the State of Colorado to City Councils, except as herein otherwise provided.

Sec. 32. Contractual Powers.

The City Council shall have the power to enter into any contract or agreement, to purchase, lease, relinquish, sell, encumber or otherwise dispose of real or personal property in the name of the City of Monte Vista, Colorado; provided, however, that the City Council shall first hold a public hearing before selling, relinquishing or otherwise disposing of any real property. (Election 11-5-85; Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 33. Mayor.

The Mayor shall be the presiding officer of the City Council, except that in his or her absence the Mayor Pro Tem shall so act. (Charter Res. No. 8-2004 §I, election 11-2-04)

Sec. 34. No Veto.

The Mayor shall have the right to vote on all questions coming before the City Council but he shall have no veto power.

Sec. 35. City Manager.

The City Council by a majority thereof shall appoint a City Manager who shall be the executive head of the municipal government and he may or may not be a resident of the City of Monte Vista when appointed. He may be discharged at the end of any month by a majority vote of the City Council, and shall be subject to recall as herein provided.

Sec. 36. Powers and Duties.

The City Manager shall have the following powers and duties:

First: To appoint and remove all officers and employees in his departments, necessary to carry out the duties imposed upon him by Section 66, Article VII of this charter, or any other duties imposed upon him by this charter, or the City Council, except as herein otherwise provided, and to fix their compensations. He shall not appoint any relative of his to any office of trust.

Second: To attend all meetings of the City Council with right to take part in any discussion and to recommend to the City any measures as he may deem necessary or expedient; but he shall have no vote.

Third: To keep the City Council fully advised as to the financial condition and needs of the City.

Fourth: To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the City Council and shall devote all his time to City affairs.

Sec. 37. Salary.

The salary of the City Manager shall be fixed by the City Council, in such amount, payable monthly as the Council shall deem reasonable. (Election 11-6-51)

Sec. 38. [Municipal Judge.]

City Council shall appoint a Municipal Judge who shall hold office during the pleasure of the City Council appointing him and until his successor is appointed and qualified, subject, however, to the recall provisions of this charter. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 39. Jurisdiction, Powers, Duties and Procedures.

Said Municipal Judge shall have exclusive original jurisdiction to hear, try and determine all causes arising under any section of this charter or any of the ordinances of the City for a violation thereof, and there shall be no change of venue therefrom. He shall have such other jurisdiction, rights, powers and duties as are provided in Title 13 Article 10 (Municipal Courts) Colorado Revised Statutes and the procedure shall be as provided in the Colorado Municipal Court Rules of Civil Procedure. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 40. City Attorney.

The City Attorney shall be appointed by the City Council, shall hold office during the pleasure of the City Council, and shall be the legal adviser of the City Council and City Attorney and shall have the powers, duties and compensation which are now or may hereafter be imposed or granted by ordinance.

Sec. 41. Oath of Office.

All officers of the City shall take an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, the charter and ordinances of the City and faithfully to perform the duties of the office upon which they are about to enter.

Sec. 42. Bonds.

All officers and employees, who handle City funds, or officers holding positions of responsibility, shall give bond in such amount as may be required by the City Council by ordinance or resolution and the City shall pay the premium on all such bonds.

Sec. 43. No Extra Compensation.

No elected official, appointed officer, or employee, of the City shall be financially interested, directly or indirectly, in the sale of any land, material, supplies, or services to the City, unless as a result of competitive proposals, competitive bidding or independent negotiations, or not exceeding the sum of \$1,000 in any calendar year, nor shall any officer or employee receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, except as the same are available to all citizens of the City, directly or indirectly from or by reason of any dealings with or service for the City, by himself or by others except as otherwise herein provided regarding the sale of land, material, supplies, or services, and except his lawful compensation or salary as such officer or employee. (Ord. No. 563, election 6-5-84)

ARTICLE VI

Finance, Appropriation and Taxation

Sec. 44. 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.

Sec. 45. Claims Against City.

No demand for money against the City shall be approved, allowed, audited or paid unless it shall be in writing, dated and verified as hereinafter provided and sufficiently itemized as to identify the expenditure and shall first be audited by the City Manager.

Sec. 46. Purchasing and Sales Agent.

The City Manager shall be the purchasing and sales agent for all personal property for the City and shall procure all such personal property, issuing a purchase order therefor. Such purchase order shall be in writing, shall state the quality, quantity and kind of material or property required and the probable cost thereof if known. Except in the case of emergency, competitive proposals or bids shall be requested by advertising in newspaper, circular letter or other means when the probable cost of the property exceeds the minimum established by City Council. Bids shall be kept on file for two years. (Ord. No. 563, election 6-5-84; Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 47. Bills.

Bills for material and supplies furnished must specify quantity and cost of article, and to whom delivered and must reference the purchase order issued therefor. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 48. Issuance of Checks.

All bills for work done for the City, after having received the approval in writing of the City Manager, and legal in all particulars, shall be allowed by vote of a majority of the City Council present at any meeting, whereupon a check shall be drawn in triplicate, the original of which shall be signed by the City Clerk or Treasurer, countersigned by the Mayor, Mayor pro-tem, or other councilmember approved by the Council by resolution, which said original check shall thereupon be payable at the City depository. The person to whom the check is issued, or his assigns, shall receipt for the same by endorsement on the back of the original check. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 49. Cash Basis.

The business of the City shall be conducted on a cash basis and checks shall not be drawn, upon the order of the City Manager or City Council, unless there be money in the city depository to pay the same. Checks may be issued in the event of an emergency but not in excess of the balance remaining in any fund as fixed in the annual appropriation ordinance. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 50. Funds.

The funds of the City shall be those which are necessary for proper accounting of the City's records and finances and in accordance with generally accepted accounting principles. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 51. Adoption of Existing Law.

Until the Council shall otherwise, by Ordinance provide, the Statutes of the State of Colorado now or hereafter in force, shall govern the making of assessments by the assessor of the county in which the City

is situated, the making of equalizations, and the collection of taxes by the Treasurer of said county for and on behalf of the City, and also the certification and collection of all delinquent charges, assessments and taxes.

State law reference—Taxation and assessment collection, Section 31-20-101, et seq., C.R.S.

Sec. 52. Certificate of Assessment.

It shall be the duty of the City Manager to procure, as soon as available each year, a certificate from the County Assessor of the total amount of property assessed for taxation within the limits of the City, as shown by the assessment roll in the Assessor's office.

Sec. 53. Annual General City Estimate.

On or before the first day of October, each year, or on such date as shall be fixed by the Council, the City Manager shall submit to the Council his annual budget setting forth in detail, for their information, an estimate of the probable expenditure of the City government for the next ensuing fiscal year for all purposes, also an estimate of the probable income from fines, licenses, water rents, and all other sources of revenue exclusive of taxes upon property.

Sec. 54. Tax Levy and Appropriation.

The City Council shall, between October first and November first of each year, meet and pass an Ordinance which shall be entitled the "Annual Appropriation Ordinance," in which shall be included such levy as in its judgment may be deemed proper and wise, in mills, upon each dollar of the assessed valuation of all taxable property within the corporate limits of the City, and shall cause such total levy to be properly certified to the County Commissioners of Rio Grande County, Colorado. This ordinance shall also appropriate such sums of money as it may deem necessary to defray all expenses and liabilities of the City, which appropriation shall not exceed the estimated revenue of said City for the fiscal year, and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object and purpose therein named for the ensuing year.

If the City Council fails in any year to make such tax levy as above provided, then the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied by the Board of County Commissioners, the same as if certified to said board.

The amount required to make payment of any interest or principal or bonded indebtedness, shall always be included in and met by tax levy, except as may otherwise be provided in this charter.

Sec. 55. No Liability Without Appropriation.

Except as herein otherwise specifically provided the City expenditures in any one year shall not exceed the amount provided in the annual appropriation ordinance for that year, and no contract involving the expenditure, and no expenditure for any improvement to be paid out of the general or special fund of the City, or for defraying expenses and liabilities of the City shall exceed, in any one year, the amount provided in the annual appropriation ordinance to be paid out of the said general and special funds so appropriated and set apart, but the several funds shall be maintained for, used and applied to the particular purposes specified in the annual appropriation ordinance.

It shall be unlawful for any officer of the City to incur or contract any expense or liability for or in behalf of the City unless such an appropriation shall have been made concerning such expense. Such contract shall be 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 by ordinance 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, to be determined by resolution of the City Council before said expense is incurred. If there be any funds in the treasury not otherwise appropriated the same may be applied to the payment of such emergency expenses; and, second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for moneys to be collected by special assessments for local improvements.

Sec. 56. Collection of Taxes.

Until the City Council shall otherwise, by ordinance provide, the County Treasurer shall collect City taxes in the same manner and at the same time as State taxes are collected, and all laws of the State for the assessment of property and the levy and collection of general taxes, including laws for the sale of property for taxes, and the redemption of the same, shall apply and have as full effect in respect to taxes for the City as of such general taxes.

On or before the tenth day of every month, the County Treasurer shall report and pay to the City Clerk the amount of tax collections of the City for the preceding month said collections to be immediately thereafter deposited in the City Depository.

Sec. 57. Special Statutes Continued in Force.

The provisions of Sections 6657 and 6658 of the Revised Statutes of Colorado 1908, relating to sidewalks and Sections 6565 and 6566 of the said Revised Statutes relating to Sewers and the assessments therefor, shall be in full force and effect.

Sec. 58. Limitation of Indebtedness.

Except as otherwise in this charter provided, no bonds shall be issued for any purpose, except in pursuance of an ordinance authorizing the same, which ordinances shall be irrevocable until the indebtedness therein provided for, and the bonds issued in pursuance thereof, shall have been fully paid; and no bonds shall be issued unless the question of issuing the bonds shall be submitted to the vote of such qualified electors of the City as shall, in the year next preceding said election have paid a property tax therein, and a majority of those voting upon the question by ballot shall vote in favor of issuing the bonds, provided, however, that nothing in this section or in this charter shall be construed to require any election to authorize special assessment or improvement bonds, warrants or assessments where no guarantee as to payment by the City is made, and provided further, that the creation [of] bonding and all proceedings concerning such local or special improvement districts shall be as provided by law of the State of Colorado until special or different proceedings concerning the same may be by ordinance provided under the authority of Section 99 of this charter.

The City shall not become indebted for any purpose or in any manner in any amount which, including existing indebtedness shall exceed three percent of the true valuation of the taxable property within the City as shown by the last preceding assessment for City purposes, provided, however, that in determining the limitations of the City's power to incur indebtedness there shall not be included bonds issued for the

acquisition or extension of water, light or other public utilities, enterprises, works, or ways from which the City will derive a revenue.

SPECIAL SURPLUS AND DEFICIENCY FUND. Whenever all outstanding bonds of a special or local improvement district shall have been paid, any monies remaining to the credit of the district shall be transferred to a special surplus and deficiency fund. Whenever there is a deficiency in any special or local improvements district fund to meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund. Whenever a special or local improvement district shall have paid and cancelled three fourths of its bonds issued, and for any reason the district is unable to pay the remaining bonds and interest when due, and after applying any money available in the special surplus and deficiency fund, the City may pay the remaining bonds when due and interest due thereon and reimburse itself by collecting the unpaid assessments due the district, or may levy a general fund tax, up to one mill, for that purpose. (Election, 11-3-25; Ord. No. 416, election 11-7-67)

Sec. 59. Terms of Bonds, Disposal of Bonds.

The term, redemption features, interest rate and similar details of bonds of the City shall be fixed by Ordinance, and bonds shall be sold by the City at public or negotiated sale, at par or above or below par, all as determined by the City Council to be to the best advantage of the City. (Ord. No. 712, 9-3-98, election 11-3-98)

Sec. 60. Funding Bonds.

Upon the passage of an ordinance to provide for the funding of any floating City indebtedness for which warrants of the City have been issued in good faith and a majority of those voting upon the question by ballot shall vote in favor of issuing said bonds, to fund such floating indebtedness the legality of such bond issue shall never be questioned but shall be and constitutes a direct obligation of the City according to its terms.

Sec. 61. Refunding Bonds.

The provisions of the Laws of Colorado, relating to refunding bonds are hereby made and declared to be in full force and effect in the City until the Council shall otherwise by ordinance provide.

Sec. 62. Financial Statements.

Within one hundred eighty (180) days after the end of each calendar year, the City Manager shall compile and cause to be published once in a newspaper published in the City or generally distributed in such form as the City Council may direct, a complete report of the business of the City for such calendar year, showing the receipts, disbursements and balances on hand in each fund. All or a portion of the financial statements of the City which are audited pursuant to the requirements of Section 63 of this charter may be used to satisfy the requirements of this Section for the compilation of the City Manager. (Ord. No. 712, 9-3-98, election 11-3-98)

Sec. 63. Audit by Accountant.

At the close of each fiscal year the books and accounts of the City shall be audited by a competent accountant, who shall, upon the completion of such audit, file a detailed report with the City Council within fifteen (15) days after the completion of the same.

Sec. 64. Method of Bookkeeping.

The City Council shall provide a complete set of books for the keeping of a record of the City's business in the most approved modern plan in vogue in municipal governments, so arranged as to furnish detailed information relating to the City's business, and where daily cash balance can be had.

Sec. 65. Depository for Public Funds.

The City Council may designate a City Depository for public funds and require the funds of the City to be deposited and kept therein on terms most advantageous to the City and as it may prescribe by resolution or ordinance.

ARTICLE VII

Highways, Health, Water Works, Sewers, Lighting and Public Safety

Sec. 66. Highways, Sewers, Water Works and Lighting.

The City Manager shall, in accordance with the Revised Statutes of Colorado of 1908 and all amendatory acts thereto and subject to the supervision and control of the City Council in all matters, and the ordinances of the City, manage and have charge of the construction, improvements, repairs, and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts and other public highways; of water works, sewers, drains, ditches, culverts, canals, streams and water courses, irrigation ditches, gutters and curbing; of all public buildings, of boulevards, squares and other public places, and grounds belonging to the City or dedicated to public use, including parks and play grounds, excepting however the Public Library; the cleaning, sprinkling and lighting of streets and public places, the collection and disposal of waste, and the care and preservation of all tools, appliances and personal property belonging to the City. He shall have supervision of issuing building permits, the inspecting of plumbing, wiring and weights and measures. He shall also have charge of the enforcement of all the obligations of privately owned or operated public utilities enforceable by the City.

Sec. 67. Water.

Whenever the water supply is, or becomes greater than the needs of the City for fire and irrigation purposes the City Council may dispose of such surplus water to consumers of water outside the City limits at such price as in the opinion of the City Council is just and proper.

Sec. 68. Health.

The City Council shall appoint a health officer who shall be a graduate of a reputable medical college, and shall be licensed to practice medicine in this State. He shall have all the powers provided by the Revised Statutes of Colorado of 1908, and acts amendatory thereto, relative to public health, to be

exercised in municipalities by health officers. He shall have the right to break open and enter, after reasonable request for such right, all buildings, residences and other places, whether public or private, wherein persons suspected of being afflicted with some contagious disease are located or where anything may be suspected of being that may communicate such contagious disease to others. He shall have the power to seize and destroy without the necessity of trial articles of whatsoever kind or nature that may be found by him to be capable of communicating contagious diseases if not capable of fumigation or disinfection. He shall also have the right to arrest any person or persons who may violate the ordinances made by the City Council relating to public health, or who shall resist him in the performance of his duties. He shall be the inspector of milk and food offered for sale in the City. The City Council shall have power to make and enforce additional ordinances and regulations which may be necessary or expedient for the preservation of public health and the prevention and suppression of disease.

Sec. 69. Public Safety.

Fire Department: The City Council shall provide fire protection for the citizens of the City of Monte Vista, either through a fire department as established by ordinance or as a member of a Fire Protection District. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 70. Police Department.

The City Council shall by ordinance provide for the establishment and maintenance of a Police Department consisting of such employees as it may deem necessary. The City Manager may appoint such employees, by and with the advice and consent of the City Council, and shall have jurisdiction over the said Police Department with the right to remove any and all of said employees and to purchase the necessary supplies therefor. The City Council shall enforce all laws and ordinances.

ARTICLE VIII

Franchises, Public Utilities and Contracts

Sec. 71. [Grant.]

No franchise to construct and operate a public utility in any street, avenue, alley, or public place of said City shall be granted except upon ordinance by the Monte Vista City Council; provided, however, that the power of initiative and referendum concerning said franchises is hereby reserved to the Monte Vista city electorate. The Monte Vista City Council shall have the power to require that any such proposed franchise be submitted to an election, and, if so submitted, shall only be granted upon the majority vote of the tax paying electors of said City voting at such election. In such case, the question of its being granted, shall be submitted to such vote only upon deposit, with which to pay costs, with the City Council of the expense (to be estimated by the City Council) of such submission, by the applicant for said franchise. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 72. No Exclusive Grant.

No franchise or privilege shall be granted for a longer period than twenty years. No exclusive franchise or renewal shall ever be granted and no franchise shall be renewed before one year prior to its expiration.

Sec. 73. No Assignment.

No franchise or privilege granted by the City shall ever be leased, assigned or transferred except by majority vote of the legal voters voting on the question, to be submitted to an election thereon, at the expense of the owners, to be deposited as in Section 71.

Sec. 74. Conditions.

All franchises or privileges hereafter granted to construct and operate a public utility shall prescribe the kind and quality of service or product to be furnished, the maximum rate or rates to be charged therefor, shall specify on which particular streets, avenues, alleys or public grounds the same shall apply and the manner in which the streets, avenues, alleys and public grounds shall be used and occupied, and any other terms and conditions conducive to the public interest.

Sec. 75. Termination.

All such grants and renewals thereof shall reserve to the City the right to terminate the same and to purchase all the property of the utility in the streets, avenues, alleys and public places in the City and elsewhere as may be provided in the franchise making the grant or renewal, used in or useful for the operation of the utility, at the price fixed in the franchise. Nothing in such franchise shall prevent the City from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative to the power of purchase, reserved in the franchise or renewal as hereinbefore provided. Upon the acquisition by the City of the property of any utility, by purchase, condemnation, or otherwise, such franchise or renewals shall at once terminate.

Sec. 76. Purchase Price.

No franchise making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility, by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal.

Sec. 77. Extensions.

The City may, as provided in Section 71, Article VIII, grant to any individual, company or corporation operating a public utility, the right to extend the appliances and service of such utility. All such extensions shall become a part of the aggregate property of the utility, and shall be subject to all the obligations and reserved rights in favor of the City applicable to the property of the utility by virtue of the franchise providing for its construction and operation. The right to use and maintain any such extension shall expire with the original franchise of the utility to which the extension was made or any renewal thereof.

Sec. 78. Consents.

No consent of the owner of property abutting on any highway or public ground shall be required for the construction, extension, maintenance or operation of any public utility by original grant or renewal, unless such public utility is of such a character that its construction or operation is an additional burden upon the rights of such property owner in such highways or public grounds.

Sec. 79. Right to Insert Additional Matter.

The enumeration and specification of particular matters in this charter which must be included in every franchise or grant, shall never be construed as impairing the right of the City to insert in such franchise or grant, such other and further conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeiture or any other provisions whatever, as the City shall deem proper, to protect the interests of the people.

Sec. 80. Regulations.

The City Council shall at all times control the distribution of space, in, over and under and across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the City Council to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, avenues, alleys and public places of the City, as shall in the opinion of the City Council be necessary in the public interest.

Sec. 81. Contracts for Service.

All contracts for service between the City and the owner or managers of any such franchise shall be made by ordinance, the terms of which shall be agreed to in writing by said owner or manager prior to the passage of such ordinance. (Ord. No. 618, 10-10-89, election 11-7-89)

Sec. 82. Power to Regulate Rates and Fares.

All power to regulate the rates, fares, rentals and charges for service by public utility corporations is hereby reserved to the people to be exercised by them by ordinance of the City Council, or in the manner herein provided for initiating or referring an ordinance. Any right or regulation shall further include the right to require uniform, convenient and adequate service to the public and reasonable extensions of such service and of such public utility works. The granting of a franchise shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant itself.

Sec. 83. Ordinance in Plain Terms.

No franchise, right, privilege, or license shall be considered as granted by any ordinance, except when granted therein in plain and unambiguous terms, and any and every ambiguity therein shall be construed in favor of the City and against the claimant under said ordinance.

Sec. 84. Franchise Provide for Safety, Etc.

The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make any regulations for the safety, welfare and accommodation of the public, including among other things, the right to require proper and adequate extensions of the service of such grant, the right to require any or all wires, cables, conduits, and other appliances to be placed underground and the right to protect the public from danger or inconvenience, in the operation of any work or business authorized by the grant of the franchise.

Sec. 85. City Maintain General Supervision, Reports, Inspection.

The City shall maintain general supervision and police control over all public utility companies in so far as they are subject to municipal control. It shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violation of law.

It shall require every person or corporation operating under a franchise or grant from the City, to submit to the City Council within sixty (60) days after the first day of January of each year, an annual report verified by the oath of the president, the treasurer, or the general manager thereof.

Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the City Council shall have the power, either through its members or by experts or employees duly authorized by it, to examine the books and affairs of any such person, persons or corporations, and to compel the production before them of books and papers pertaining to such report or other matters.

Any person, persons or corporation which shall fail to make any such report, shall be liable to a penalty of One Hundred Dollars (\$100.00) and an additional penalty of One Hundred Dollars (\$100.00) for each and every day thereafter, during which he or it shall fail to file such report, to be sued for and recovered in any court of record having jurisdiction.

The City Manager shall, either personally or through the City's inspectors or employees, enter into and upon and inspect the buildings, plants, power houses, and all properties of any such person, persons or incorporations, and shall inspect the same at least once each year and shall immediately thereafter report to the City Council a detailed and complete statement of such inspection.

Sec. 86. Books of Record and Reference.

The City Manager shall provide and cause to be kept in his office the following books of record and reference:

First: A franchise record, indexed, and of proper form, in which shall be transcribed accurate and correct copies of all franchises or grants by or contracts with the City to any person, persons or corporation owning or operating any public utility. The index of said record shall give the name of the grantee and thereafter the name of any assignee thereof. Said record shall be a complete history of all franchises granted by the City and shall include a comprehensive and convenient reference to actions, contents, or proceedings at law, if any, affecting the same.

Second: A public utility record, of every person, persons or corporation owning or operating any public utility under any franchise granted by the City, into which shall be transcribed accurate and correct copies of each and every franchise granted by the City to said person, persons or corporation or which may be controlled or acquired by them or it, together with copies of all annual reports and inspection reports, as herein provided, and such other matters of information and public interest as the City Manager may from time to time, acquire. If case annual reports are not filed and inspections are not made, as provided, the City Manager shall record such fact in the public utility record and in writing report the same to the City Council. All such reports, or a synopsis thereof, shall be published once in a newspaper of general circulation, published in the City, or printed and distributed in pamphlet form, as the City Council may determine.

The provisions of this section shall apply to all persons or corporations operating under any franchise now in force or hereafter granted by the City.

Sec. 87. Books of Account.

The City, when owning any public utility, shall keep the books of account for such public utility distinct from other City accounts, and in such a manner as to show the true and complete financial result of such City ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to the City of the public utility owned; all cost of maintenance, extension and improvements, all operating expenses of every description, in case of such operation; if water or other service shall be furnished for the use of any department of the City without charge, the accounts shall show, as nearly as possible, the value of such service; such accounts shall also show reasonable allowance for interest, depreciation and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation. The City Council shall cause to be printed annually for distribution, a report showing the financial results, in form as aforesaid, or such City ownership, or ownership and operation.

ARTICLE IX

Commissions, Boards and General Provisions

Sec. 88. Charities Commission and Public Welfare.

The City Council may establish a commission of public charities and public welfare and appoint commissioners thereon, to serve without compensation, with such tenures, powers and duties of office as may be fixed by ordinance.

Sec. 89. Public Meetings of Electors.

In order to enlist the active service of each citizen of the City in improving the government of the City, in assisting in the enforcement of ordinances and in promoting public improvements, public meetings of the electors of the City may be called from time to time by the City Council. A public meeting shall be called upon written request of qualified electors equal in number to at least 5 percent of the last preceding vote for all candidates for Governor in the City of Monte Vista. (Ord. No. 563, election 6-5-84)

Sec. 90. Monte Vista Day.

The City Council may, by ordinance, designate a certain day in the spring of each year, to be known as "Monte Vista Day," and shall, by notice and proclamation, request all the citizens of said City to cease from their vocations, to close up their stores and places of business for one-half of said day and devote the time to cleaning up the streets and alleys and public and private places of said City and to setting out shade and ornamental trees, beautifying said City, and improving the roads and streets of said City. Proper committees shall be appointed each year by the City Council to have this work in charge and to enlist the active services of each citizen in the City in said work.

Sec. 91. Civic Beauty.

The City Council or any authorized officer shall have authority to condemn and compel to be removed signs, billboards, shacks, dilapidated buildings and other structures, wherever the same mar the beauty of the said City and are condemned in accordance with the uniform ordinances, rules and regulations passed by said City Council.

Sec. 92. [When Effective; Transition.]

Should this charter be approved by the majority vote of the qualified electors voting thereupon, and upon filing two copies thereof officially certified by the City Clerk, in the office of the Secretary of State of Colorado, it shall thereupon be in full force and effect and the present form of government, including all existing City wards, shall thereupon cease and terminate. All officers and other persons, in the service of the City at that time shall continue to serve as such, receive compensation therefor now provided by law or by ordinance, have and exercise power, authority and jurisdiction heretofore possessed by them, until the elective officers first elected hereunder shall qualify. Upon such qualification the term of office of any officer or person or employee in the service of the City at the time this charter takes effect shall immediately terminate.

Sec. 93. Outgoing Officers.

All officers of the City whose term of office shall be terminated by the first election under this charter shall deliver and turn over to the officers upon whom their powers and duties devolve, all papers, records and property of any kind in their possession or custody by virtue of their office and shall account to them or to any authority designated by the City Council, for all funds, credits or property of any kind with which they are properly chargeable as such officials.

Sec. 94. Present Ordinances Continue in Force.

All laws, ordinances, resolutions, bylaws, orders, rules or regulations in force in the City of Monte Vista at the time this charter takes effect, not inconsistent with its provisions, whether enacted by the authority of the City or any other authority, shall continue in full force and effect until otherwise provided by ordinances.

Sec. 95. Penalty for Violation.

Any person who shall violate any of the provisions of this charter for the violation of which no punishment has been provided shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) or by imprisonment in the City jail not exceeding three (3) months, or by both such fine and imprisonment.

Sec. 96. Definition of Misdemeanor.

The term "Misdemeanor" as used in this charter, shall mean a violation thereof, or of any ordinance, of which the municipal court or magistrate thereof shall have jurisdiction, and shall not have the meaning attached to it in Chapter XXXV; entitled: "CRIMES," Revised Statutes of Colorado, 1908.

Sec. 97. Continuing Bonds, Etc.

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, forfeitures, incurred or imposed, due or owing the City, shall be enforced and collected and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by this charter; and all legal acts done by or in favor of the City, shall be and remain as valid as though this charter had not been adopted.

Sec. 98. Submission of Charter Amendments.

The charter may be amended at any time in the manner provided by Article XX, and amendments thereto, of the Constitution of the State of Colo.; except that not less than fifteen (15) percent of the next preceding gubernatorial vote in said City shall be necessary to petition therefor.

Sec. 99. Reservation of Power.

The power to supersede any law of the State or hereafter in force, in so far as it applies to local or municipal affairs, shall be reserved to the City, acting by ordinance.

Sec. 100. Alcoholic Liquors.

The City Council may approve licenses for the sale of alcoholic beverages using standards and procedures as set out in state statutes. (Ord. No. 563, election 6-5-84)

CHARTER COMPARATIVE TABLE

ORDINANCES AND REFERENDUM

This table shows the location of the sections of the basic Charter and any amendments thereto.

<i>Ordinance Number</i>	<i>Adoption Date</i>	<i>Election Date</i>	<i>Section This Charter</i>
	3-28-22	3-28-22	1-100
		11-3-25	58
		11-5-85	17 32
		11-6-51	17[37]
488		11-7-67	2
563		6-5-84	15 43 46 89 100
618	10-10-89	11-7-89	14 16 22 38, 39 46—50 69 71 81
918		11-7-67	16
712	9-3-98	11-3-98	59 62
732	12-7-00	1	16
Reso. 8-2004	9-2-04	11-2-04	2 3 14—18 33

CHAPTER 1

General Provisions

Article 1	Code	
	Sec. 1-1-10	Adoption of Code
	Sec. 1-1-20	Title and scope
	Sec. 1-1-30	Code supersedes prior ordinances
	Sec. 1-1-40	Adoption of secondary codes by reference
	Sec. 1-1-50	Repeal of ordinances not contained in Code
	Sec. 1-1-60	Matters not affected by repeal
	Sec. 1-1-70	Ordinances saved from repeal
	Sec. 1-1-80	Changes in previously adopted ordinances
Article 2	Definitions and Usage	
	Sec. 1-2-10	Definitions
	Sec. 1-2-20	Computation of time
	Sec. 1-2-30	Title of office
	Sec. 1-2-40	Usage of terms
	Sec. 1-2-50	Grammatical interpretation
Article 3	General	
	Sec. 1-3-10	Titles and headings not part of Code
	Sec. 1-3-20	General references
	Sec. 1-3-30	Delegation of authority
	Sec. 1-3-40	Prohibited acts
	Sec. 1-3-50	Purpose of Code
	Sec. 1-3-60	Repeal of ordinances
	Sec. 1-3-70	Amendments to Code
	Sec. 1-3-80	Supplementation of Code
	Sec. 1-3-90	Copy of Code on file
	Sec. 1-3-100	Sale of Code books
	Sec. 1-3-110	Severability
	Sec. 1-3-120	Superiority of Code
Article 4	General Penalty	
	Sec. 1-4-10	Violations
	Sec. 1-4-20	General penalty for violation
	Sec. 1-4-30	Application of penalties to juveniles
	Sec. 1-4-40	Altering or tampering with Code; penalty
	Sec. 1-4-50	Penalty for violations of ordinances adopted after adoption of Code
	Sec. 1-4-60	Interpretation of unlawful acts
Article 5	Inspections	
	Sec. 1-5-10	Entry
	Sec. 1-5-20	Authority to enter premises under emergency
	Sec. 1-5-30	Announcement of purpose and authority to enter premises
Article 6	Seal	
	Sec. 1-6-10	Corporate seal

ARTICLE 1

Code

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

The published code known as the *Monte Vista Municipal Code*, published by Colorado Code Publishing Company, of which one (1) copy is now on file in the office of the City Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the City of Monte Vista, Colorado, as a codification of all the ordinances of the City of Monte Vista of a general and permanent nature through Ordinance No. 812, 2009, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the City. (Ord. 811 §1, 2009)

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

The provisions in this Code shall constitute a compilation, revision and codification of all the ordinances of the City of Monte Vista, Colorado, of a general and permanent nature, shall be designated and known as the *Monte Vista Municipal Code* and may be so cited. (Prior code 1-1; Ord. 811 §1, 2009)

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

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the City Council. (Prior code 1-7; Ord. 811 §1, 2009)

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

Secondary codes may be adopted by reference, as provided by state law. (Ord. 811 §1, 2009)

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

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Ord. 811 §1, 2009)

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

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-50 above shall not affect any offense or act committed or done, any penalty or forfeiture incurred or any contract, right or obligation established or accruing prior to the time said ordinances and parts of ordinances are repealed. (Prior code 1-8; Ord. 811 §1, 2009)

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

(a) The continuance in effect of administrative, temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom. The

adoption of this Code shall not repeal or amend any such ordinance or part of any such ordinance when inconsistent with this Code. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Creating, dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, renaming, vacating or closing any street, alley and other public way in the City.
- (2) Establishing and prescribing the grades or lines of any street, sidewalk and other public way in the City.
- (3) Prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on loads of vehicles or loading zones.
- (4) Creating specific sewer and paving districts and other local improvement districts.
- (5) Promising or guaranteeing the payment of money for the City, or authorizing the issue of any general obligation or specific local improvement district bonds of the City, any evidence of the City's indebtedness or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the City.
- (6) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (7) Providing for local improvements and assessing taxes therefor.
- (8) Annexing territory to, excluding territory from or extending the boundaries of the City.
- (9) Dedicating or accepting any plat or subdivision in the City.
- (10) Zoning or rezoning real property or amending the Official Zoning Map.
- (11) Calling elections or prescribing the manner of conducting the election in accordance with state law.
- (12) Authorizing specific contracts for purchase of beneficial use of water by the City.
- (13) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.
- (14) Authorizing a specific lease, sale or purchase of property.
- (15) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (16) Granting any right or franchise by ordinance or establishing rights for or otherwise regulating a specific public utility company.
- (17) Appropriating money or adopting a budget.

(18) Levying or imposing taxes.

(19) Establishing positions, classifying positions, setting salaries of City officers and employees or any personnel regulations.

(20) Prescribing any rates, charges, deposits, fees or other payment of money to the City.

(b) All such ordinances are hereby recognized as continuing in full force and effect and are on file in the City Clerk's office. (Prior code 1-10; Ord. 811 §1, 2009)

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

In compiling and preparing the ordinances of the City for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one (1) or more of said ordinances. It is the intention of the City Council that all such changes are adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 811 §1, 2009)

ARTICLE 2

Definitions and Usage

Sec. 1-2-10. Definitions.

In the construction of this Code and of all ordinances, the following words and phrases shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Charter means the Home Rule Charter of the City of Monte Vista, Colorado.

City means the City of Monte Vista, Colorado, or the area within the territorial limits of the City of Monte Vista, Colorado, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision. *City* shall also extend to and include its several officers, agents and employees.

City Council means the City Council of the City of Monte Vista, Colorado.

Code means the Monte Vista Municipal Code as published and subsequently amended, unless the context requires otherwise.

County means the County of Rio Grande, Colorado.

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

Highway includes any street, alley, highway, avenue, public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway in the City dedicated or devoted to public use.

Keeper and *proprietor* include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or through a servant, agent or employee.

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

May is permissive.

Month means a calendar month.

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

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

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

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

Personal property includes money, goods, chattels, things in action, evidences of debt and every kind of property except real property.

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

Property includes real, personal and mixed property.

Real property includes lands, tenements and hereditaments.

Shall and *must* are both mandatory.

Sidewalk means any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians, excluding parkways.

Signature or *subscription* includes a mark when the person cannot write.

State means the State of Colorado.

Street includes all streets, avenues, boulevards, roads, highways, alleys, lanes, viaducts, courts, places, squares, curbs and all other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

Tenant and occupant, applied to a building or land, includes any person holding a written or oral lease of, or who occupies the whole or a part of, such building or land, either alone or with others.

Written or in writing includes printed, typewritten, mimeographed, multigraphed, any representation of words, letters, symbols or figures, whether by printing or otherwise reproduced in permanent visible form.

Year means a calendar year. (Prior code 1-2; Ord. 811 §1, 2009)

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

In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. (Prior code 1-2)

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

Whenever reference is made to a board, committee, commission, officer, employee or department, it shall mean the same as if it were followed by the words "of the City of Monte Vista, Colorado. (Prior code 1-2; Ord. 811 §1, 2009)

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

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 811 §1, 2009)

Sec. 1-2-50. Grammatical interpretation.

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

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.
- (4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Prior code 1-2; Ord. 811 §1, 2009)

ARTICLE 3

General

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

Chapter, article and section titles, headings, numbers and other divisions in this Code or in supplements made to this Code are intended as mere catchwords to indicate the contents of the sections for the convenience of persons using this Code and are not part of this Code. (Prior code 1-3; Ord. 811 §1, 2009)

Sec. 1-3-20. General references.

(a) All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

(b) The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

(c) References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect. (Prior code 1-4, 1-5, 1-6)

Sec. 1-3-30. Delegation of authority.

(a) Whenever a provision of this Code requires or authorizes the head of a department or any other City officer or employee to perform an act or duty, it shall be construed to include all such acts or duties performed when done by an authorized agent, designee or representative unless the duty is not delegable or the terms of the provision or section specify otherwise.

(b) Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless other wise declared. (Prior code 1-2; Ord. 811 §1, 2009)

Sec. 1-3-40. Prohibited acts.

Whenever in this Code or any City ordinance any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 811 §1, 2009)

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

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice. (Ord. 811 §1, 2009)

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

The repeal of an ordinance or portion of this Code shall not repeal the repealing clause of such ordinance or revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment

or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed. (Prior code 1-9; Ord. 811 §1, 2009)

Sec. 1-3-70. Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the City Council to make the same a part hereof, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments. All of the substantive, permanent and general parts of said ordinances and changes made thereby shall be inserted and made in this Code as provided in this Section.

(b) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That Section _____ of the Monte Vista Municipal Code is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(d) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Monte Vista Municipal Code is hereby amended by adding a section to be numbered _____, which section reads as follows:" The new section may then be set out in full as desired.

(e) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be. (Prior code 1-11; Ord. 811 §1, 2009)

Sec. 1-3-80. Supplementation of Code.

(a) By contract or by City personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed by ordinance shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make informal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this Chapter," "this Article," "this Division," etc., as the case may be, or to "Sections ____ through ____." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code.
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code. (Prior code 1-12; Ord. 811 §1, 2009)

Sec. 1-3-90. Copy of Code on file.

At least one (1) copy of this Code as most recently updated shall be kept in the office of the City Clerk at all times, and such Code may be inspected by any interested person at any time during regular office hours, but may not be removed from the City Clerk's office except upon proper order of a court of law. (Ord. 811 §1, 2009)

Sec. 1-3-100. Sale of Code books.

Copies of this Code book may be purchased from the City Clerk upon the payment of a fee to be set by resolution of the City Council. (Ord. 811 §1, 2009)

Sec. 1-3-110. Severability.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable. If any phrase, clause, sentence, paragraph or section of this Code is declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code and the remainder of this Code shall continue in full force and effect. (Prior code 1-13; Ord. 811 §1, 2009)

Sec. 1-3-120. Superiority of Code.

All laws of the State in conflict with the provisions of this Code are hereby superseded. (Prior code 1-15)

ARTICLE 4

General Penalty

Sec. 1-4-10. Violations.

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

(b) Any person who is alleged to have violated any provision of this Code or other ordinance enacted after the effective date of this Code, or orders, rules or regulations promulgated under authority of this Code enacted hereafter, shall be issued a summons and complaint charging the nature of the violation and shall be ordered to appear before the Municipal Court. (Prior code 1-14; Ord. 811 §1, 2009)

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

(a) Any act or failure to act which is prohibited, made or declared to be unlawful or an offense, nuisance or misdemeanor shall be a violation of this Code or any other ordinance, orders, rules or regulation of the City. Any person who is convicted of the violation of any such provision of this Code or such other ordinance, orders, rules or regulations for which a different penalty is not specifically provided shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case.

(b) Unless otherwise specifically provided elsewhere in this Code, every day any violation of this Code or any other ordinance, order, rule or regulation of the City continues shall constitute a separate offense. (Prior code 1-14, 1-16; Ord. 801 §B, 2008; Ord. 811 §1, 2009)

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

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. (Ord. 811 §1, 2009)

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

Any person who shall alter, change or amend this Code, except in the manner prescribed in this Chapter, or who shall alter or tamper with this Code in any manner so as to cause the ordinances of the City to be misrepresented thereby, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 hereof. (Ord. 811 §1, 2009)

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

Any person who shall violate any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a

supplement, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 unless another penalty is specifically provided for the violation. (Ord. 811 §1, 2009)

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

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful. (Ord. 811 §1, 2009)

ARTICLE 5

Inspections

Sec. 1-5-10. Entry.

Whenever necessary to make an inspection to enforce any provision of this Code or any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the City, the City Manager Chief of Police, Land Use Administrator or Code Enforcement Officer may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance. In the event the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the City Manager, Chief of Police, Land Use Administrator or Code Enforcement Officer is unable to obtain permission of such occupant or owner to enter such building or premises, inspection may be made only upon issuance of a search warrant by the Municipal Judge or judge of any other court having jurisdiction. Nothing contained in this Section shall negate the authority of the City to abate a nuisance under Section 5-2-10, et seq., of this Code, or to gain immediate entrance to any building or premises in the City without process of law as provided in Section 5-2-100. (Ord. 811 §1, 2009)

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

Law enforcement officers certified with the State, members of the Fire Department, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the City, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the City without invitation from the occupant of the residence at any time such persons have reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant of such premises is incapable of consenting to the entry because of such medical emergency. (Ord. 811 §1, 2009)

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

Unauthorized entry pursuant to Section 1-5-20 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry. (Ord. 811 §1, 2009)

ARTICLE 6

Seal

Sec. 1-6-10. Corporate seal.

A seal one and three-fourths ($1\frac{3}{4}$) inches in diameter, the impression of which shall read as follows: in the center, the words "Corporate Seal" and "1886," surrounded by the words "The City of Monte Vista, Colorado," in a circle, is adopted as the corporate seal of the City. (Prior code 2-1)

CHAPTER 2

Administration

Article 1	Elections	
	Sec. 2-1-10	Conduct of elections
	Sec. 2-1-20	Write-in candidate affidavit
	Sec. 2-1-30	Cancellation of election
Article 2	City Council	
	Sec. 2-2-10	City Council
	Sec. 2-2-20	Mayor as Presiding Officer
	Sec. 2-2-30	Mayor Pro Tem
	Sec. 2-2-40	Temporary Chairman
	Sec. 2-2-50	Nominations for Mayor Pro Tem, to fill vacancies on City Council and for members for councils and commissions
	Sec. 2-2-60	Election to fill vacancy on City Council
	Sec. 2-2-70	Election for Mayor Pro Tem and council and commission members
	Sec. 2-2-80	When balloting unnecessary
	Sec. 2-2-90	Boards and commissions
Article 3	Appointed Officers	
	Sec. 2-3-10	Powers and duties of officers
	Sec. 2-3-20	City Manager
	Sec. 2-3-30	City Attorney
	Sec. 2-3-40	Municipal Judge
Article 4	Personnel	
	Sec. 2-4-10	Personnel rules and regulations
Article 5	Municipal Court	
	Sec. 2-5-10	Establishment
	Sec. 2-5-20	Original jurisdiction
	Sec. 2-5-30	Presiding Municipal Judge
	Sec. 2-5-40	Sessions
	Sec. 2-5-50	Collection and receipt of moneys
	Sec. 2-5-60	Rules of procedure
	Sec. 2-5-70	Contempt power
	Sec. 2-5-80	Jurisdiction of juveniles
	Sec. 2-5-90	Violation, penalty
Article 6	Police Department	
	Sec. 2-6-10	Creation; composition
	Sec. 2-6-20	Departmental regulations
	Sec. 2-6-30	Duties of Chief of Police
	Sec. 2-6-40	Duties of police officers
	Sec. 2-6-50	Oath
	Sec. 2-6-60	Police officers as witnesses
	Sec. 2-6-70	Uniforms
	Sec. 2-6-80	Assistance from citizens
Article 7	Emergency Management	
	Sec. 2-7-10	Emergency powers granted
	Sec. 2-7-20	Proclamation of emergency; authority to issue
	Sec. 2-7-30	Manner of issuance of proclamation

Sec. 2-7-40 Duration of emergency
Sec. 2-7-50 Restriction of activities
Sec. 2-7-60 Inability of Mayor to act
Sec. 2-7-70 Unlawful acts

Article 8 Unclaimed Property

Sec. 2-8-10 Purpose
Sec. 2-8-20 Definitions
Sec. 2-8-30 Procedure for disposition of property
Sec. 2-8-40 Lost, stolen or confiscated property

Article 9 Hearing Procedures

Sec. 2-9-10 Purpose
Sec. 2-9-20 Rights of participants
Sec. 2-9-30 Judicial enforcement and review

Article 10 Planning and Zoning Commission

Sec. 2-10-10 Legislative intent
Sec. 2-10-20 Created; membership; term
Sec. 2-10-30 Status as Zoning Commission
Sec. 2-10-40 Purpose
Sec. 2-10-50 Organization
Sec. 2-10-60 Compensation; other positions
Sec. 2-10-70 Meetings

Article 11 Board of Adjustment

Sec. 2-11-10 Established
Sec. 2-11-20 Members; appointment
Sec. 2-11-30 Members; term; filling vacancy
Sec. 2-11-40 Members; removal for cause
Sec. 2-11-50 Chairman
Sec. 2-11-60 Vote to revoke official order
Sec. 2-11-70 Rules adoption; meetings
Sec. 2-11-80 Oaths, witnesses
Sec. 2-11-90 Records
Sec. 2-11-100 Powers

Appendix

Appx. 2-A Administrative Fees
Appx. 2-A-1 Liquor Licensing Fees
Appx. 2-B City Council Rules of Procedure
Appx. 2-C Personnel Rules and Regulations

ARTICLE 1

Elections

Sec. 2-1-10. Conduct of elections.

All elections shall be held and conducted in accordance with the provisions contained in Article II of the City Charter and the Colorado Municipal Election Code of 1965. The City may by ordinance determine to follow all or part of the provisions of the Uniform Election Code for any election. (Ord. 811 §1, 2009)

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

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the City Clerk by the person whose name is written in prior to twenty (20) days before the day of the election, indicating that such person desires the office and is qualified to assume the duties of that office if elected. (Prior code 2-241; Ord. 811 §1, 2009)

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

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

(b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place. (Prior code 2-242; Ord. 811 §1, 2009)

ARTICLE 2

City Council

Sec. 2-2-10. City Council.

(a) The City Council is the legislative and governing body of the City and shall consist of four (4) City Councilors and one (1) Mayor. Each City Councilor shall be addressed as Councilor (last name) and the Mayor shall be addressed as Mayor (last name).

(b) The first regular meeting of the City Council in January following election shall constitute its organizational meeting, at which time a Mayor Pro Tem shall be elected by the City Council and other periodic administrative matters, such as lease and contract renewals, shall be conducted. (Ord. 772, 2005; Ord. 811 §1, 2009)

Sec. 2-2-20. Mayor as Presiding Officer.

(a) The Mayor shall be the Presiding Officer at meetings of the City Council.

(b) The Mayor shall have the same voting right as any other member of the City Council, shall be recognized as the head of the City government for all ceremonial, dignitary and legal purposes, and shall sign and authenticate all legal instruments requiring his or her signing as such official. (Ord. 772, 2005)

Sec. 2-2-30. Mayor Pro Tem.

(a) The City Council shall elect one (1) of its members to serve as Mayor Pro Tem by a majority of the members of the City Council at each organizational meeting of the City Council as specified in Subsection 2-2-10(b) above.

(b) The Mayor Pro Tem shall preside at meetings of the City Council in the absence or disability of the Mayor. In serving as Presiding Officer, the Mayor Pro Tem retains all of his or her rights and privileges as a Councilor, including those of voting on all questions and taking part in discussions. (Ord. 772, 2005)

Sec. 2-2-40. Temporary Chairman.

(a) In the event of the absence or disability of both the Mayor and Mayor Pro Tem, which prevents them from attending any meeting of the City Council, the City Clerk shall call such meeting to order and call the roll. The City Council shall then proceed to elect, by majority vote of those present, a Temporary Chairman of the meeting.

(b) The Temporary Chairman shall serve as Presiding Officer until the arrival of the Mayor or Mayor Pro Tem, at which time the Temporary Chairman shall relinquish the chair upon conclusion of the business immediately before the City Council. (Ord. 772, 2005)

Sec. 2-2-50. Nominations for Mayor Pro Tem, to fill vacancies on City Council and for members for councils and commissions.

Nominations for Mayor Pro Tem, for an appointment to fill a vacancy on the City Council, and for members to serve on councils and commissions may be made "from the floor" by any Councilor who wishes to propose a name for such position. (Any person so nominated can, at that time, withdraw his or her name from nomination.) (Ord. 772, 2005)

Sec. 2-2-60. Election to fill vacancy on City Council.

Elections to fill a vacancy on the City Council may be held by secret ballot or by roll call vote. After the votes are cast, the City Clerk will collect and count the votes. The Mayor will then announce the results. If any of the nominees receives a vote of the majority of the remaining Councilors in office on the first ballot, he or she shall be declared elected. If none of the nominees receives such a majority vote at the end of the first balloting, the candidate receiving the fewest number of votes will be dropped as a candidate unless the elimination of such name (or names in cases of a tie vote) would leave only one (1) candidate for the office. This process will continue until one (1) candidate receives the majority vote of the remaining Council members in office. (Ord. 772, 2005)

Sec. 2-2-70. Election for Mayor Pro Tem and council and commission members.

Elections to fill the position of Mayor Pro Tem and to fill positions on councils and commissions will be conducted in the same manner as elections to fill a City Council vacancy as provided by Section 2-2-60 above, except that a majority of the City Councilors present shall be sufficient to decide the question. Persons so appointed shall continue to hold office until a successor is appointed. (Ord. 772, 2005)

Sec. 2-2-80. When balloting unnecessary.

If nominations are closed with no more candidates being nominated than there are positions to be filled, the candidates so nominated shall thereby be appointed and no balloting shall be required. (Ord. 772, 2005)

Sec. 2-2-90. Boards and commissions.

(a) The City Council may create or terminate standing commissions, ad hoc committees and/or advisory boards, may appoint members of the same from citizens of the community and shall be provided with copies of the minutes of all such board, committee or commission meetings.

(b) The City Council shall appoint members to the following standing boards or commissions:

(1) Board of Adjustment.

(2) Planning and Zoning Commission (Ord. 772, 2005; Ord. 811 §1, 2009)

ARTICLE 3

Appointed Officers

Sec. 2-3-10. Powers and duties of officers.

Appointed officers of the City shall have such power and perform such duties as are now or hereafter may be prescribed by state law and the ordinances of the City, shall further perform any additional duties required by the City Council, and shall be subject to the control and orders of the City Council. (Ord. 811 §1, 2009)

Sec. 2-3-20. City Manager.

The City Manager is the appointed head of municipal administration, shall have all those powers provided by Section 36 and Section 66 of the City Charter, and shall have such additional duties as may be prescribed by the City Council. (Ord. 811 §1, 2009)

Sec. 2-3-30. City Attorney.

(a) Appointment. The City Council shall appoint a City Attorney in accordance with and who shall have the duties provided by the provisions of the Charter.

(b) Duties generally. The City Attorney shall attend all meetings of the City Council and shall be the legal advisor of the City Council, the City Manager and all City officers in all matters pertaining to City business. He or she shall appear for the City in all actions, suits and proceedings to which the City may be a party, and shall prosecute or defend as the occasion demands. He or she is authorized to make all necessary affidavits, to prepare the necessary bonds and all other instruments in writing necessary to the proper conduct of any action, suit or proceeding to which the City may be a party, and to make and prosecute appeals or any legal action in which the interests of the City demand such action. He or she shall draft all ordinances, contracts and other instruments of writing necessary to the conduct of regular City business.

(c) Salary. The City Attorney shall receive a salary, payable monthly, in such sum as may be fixed by the City Council, and shall also receive, for services in a court of record in matters in which the City is interested or in which it is a party and for special and unusual services, such reasonable compensation as may be mutually agreed upon between the City Attorney and the City Council. (Prior code 2-156—2-158; Ord. 811 §1, 2009)

Sec. 2-3-40. Municipal Judge.

The Municipal Judge shall have been admitted to and currently licensed to practice law in the State. The Municipal Judge shall be appointed by the City Council as set forth in the Charter. His or her compensation shall be fixed on an annual basis by the City Council each November, payable in monthly increments. (Prior code 2-212; Ord. 811 §1, 2009)

ARTICLE 4

Personnel

Sec. 2-4-10. Personnel rules and regulations.

There is hereby adopted by reference thereto the "Personnel Rules and Regulations" as the same has been prepared by the City Manager, adopted and amended from time to time by resolution of the City Council and incorporated into this Article as if set out in full herein. A current copy of said rules and regulations is attached as Appendix 2-B to this Chapter. (Prior code 12-26; Ord. 811 §1, 2009)

ARTICLE 5

Municipal Court

Sec. 2-5-10. Establishment.

The Municipal Court in and for the City, organized to hear and try all alleged violations of ordinance provisions of the City, is established as a qualified Municipal Court of record pursuant to the provisions of Sections 13-10-102(3) and 13-10-103, C.R.S. The Municipal Court shall keep a verbatim record of the proceedings and evidence at trials by either electronic device or by stenographic means. (Prior code 2-211; Ord. 811 §1, 2009)

Sec. 2-5-20. Original jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the City, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance. (Ord. 811 §1, 2009)

Sec. 2-5-30. Presiding Municipal Judge.

The Municipal Court shall be presided over by a Municipal Judge and such additional acting Municipal Judges as shall be appointed by the City Council, provided that the City Council shall designate a list of substitute municipal judge(s), from a list of qualified attorneys licensed to practice law in the State of Colorado, at its first meeting in January for the ensuing year and that, upon the recusal of the Municipal Judge from any Municipal Court case in the City, a substitute judge may be appointed from such list by direction of the City Manager or the Mayor, and such appointment shall be certified to the Municipal Court Clerk. (Prior code 2-212; Ord. 811 §1, 2009; Ord. 812, 2009)

Sec. 2-5-40. Sessions.

(a) The Municipal Judge shall hold at least one (1) regular session of the Municipal Court each week for the trial and processing of cases coming under the jurisdiction and ordinances of the City, except that he or she may dispense with such session when there are no matters pending.

(b) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared. (Prior code 2-213; Ord. 811 §1, 2009)

Sec. 2-5-50. Collection and receipt of moneys.

(a) It shall be the duty of the Municipal Court Clerk to supervise the collection and receipt of all fees, fines, penalties, costs and other sums receivable by or payable to the Municipal Court.

(b) The Municipal Judge is hereby directed to assess a surcharge of twenty-five dollars (\$25.00) upon all Municipal Court convictions, except as provided in Subsection (f) below, whether the same occur through a plea of guilty, a finding of guilty, a plea of nolo contendere or a deferred sentence.

(c) All of such surcharges shall be collected by the Municipal Court, with due accounting made for the same, and shall be remitted to the Finance Director, who shall enter all of said collections into the City accounts and shall separately segregate and earmark all of said funds for the purpose of training programs, records management systems, mobile data, in-car video, computer-aided citations, Court data integration and similar Police Department needs and functions, in the Police Department.

(d) In addition, the Municipal Judge is authorized to require every defendant entering a plea of guilty or nolo contendere or found guilty by the Court (except those charged with parking violations and prepaid traffic tickets) to donate items or money having a value not exceeding ten dollars (\$10.00) as a surcharge to the penalty and costs assessed to such community charitable organizations as the City Council may, by resolution, from time to time determine.

(e) Court costs shall be assessed against all defendants entering pleas of guilty, nolo contendere or in cases resulting in a finding of guilty in the amount of twenty-five dollars (\$25.00).

(f) Provided further, a surcharge shall be assessed against all defendants entering pleas of guilty, nolo contendere or in cases resulting in a finding of guilty for violations of Section 6-2-20 of this Code in the amount of ten dollars (\$10.00), and the Finance Director shall enter all of said collections into the City accounts and shall separately segregate and earmark all of said funds for the purpose of training programs in the Ordinance Enforcement Animal Control Department and educating the community. (Prior code 2-214, 2-218; Ord. 802, 2008; Ord. 809, 2009; Ord. 810, 2009; Ord. 833, 2011)

Sec. 2-5-60. Rules of procedure.

In addition to other powers, the Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court, consistent with the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court. (Prior code 2-219; Ord. 811 §1, 2009)

Sec. 2-5-70. Contempt power.

(a) When the Court finds any person to be in criminal contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one thousand dollars (\$1,000.00) and imprisonment not to exceed a term of ninety (90) days, or by both such fine and imprisonment.

(b) In cases of indirect criminal contempt not in the presence of the Court, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant, including but not limited to a formal written complaint, arraignment and trial by jury. (Ord. 811 §1, 2009)

Sec. 2-5-80. Jurisdiction of juveniles.

The Municipal Court shall have jurisdiction over any juvenile within its jurisdiction who is likewise subject to the Colorado Children's Code, and said juvenile may be prosecuted for any violation of a City ordinance in the same manner in which any adult may be so prosecuted. However, the penalty which may be imposed upon any said juvenile shall be limited to a fine of not more than one thousand dollars (\$1,000.00) and restitution. The Municipal Court shall have the power to hold any juvenile in contempt of court for willfully failing to comply with the Municipal Court's order to pay any such fine, provide restitution or perform public service or other orders for any such contempt violation. The Municipal Court shall not have authority to impose any jail sentence upon any juvenile who is found guilty of violating any municipal ordinance of the City; provided that any juvenile who is found to have committed successive violations of any municipal ordinance or any combination of violations of a municipal ordinance in a single episode shall be subject to a fine equivalent to that imposed upon any adult, and shall be subject to any combination of sanctions as otherwise provided in this Section. (Prior code 2-220; Ord. 811 §1, 2009)

Sec. 2-5-90. Violation, penalty.

The Municipal Court shall have authority to incarcerate for a period not exceeding ninety (90) days and to impose a fine not exceeding one thousand dollars (\$1,000.00), or both, upon any person convicted of violating an ordinance of the City, except where such ordinance specifies a lesser or different penalty.

Nothing contained in this Section shall limit the power of the Municipal Judge to impose other penalties in accordance with law. (Prior code 2-221; Ord. 811 §1, 2009)

ARTICLE 6

Police Department

Sec. 2-6-10. Creation; composition.

There is hereby created a Police Department for the City, which shall consist of the Chief of Police, who shall be the head of the Department, and such other police officers and personnel as the City Council shall authorize to be appointed from time to time. (Prior code 2-181)

Sec. 2-6-20. Departmental regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the City Council. (Ord. 811 §1, 2009)

Sec. 2-6-30. Duties of Chief of Police.

The City Council, upon the recommendation of the City Manager, shall appoint a Chief of Police. The Chief of Police shall have full charge of the Police Department, subject to the supervision of the City Manager, and shall have the following duties:

(1) With the approval of the City Manager, he or she shall direct the operations of the Police Department, subject to the rules and regulations thereof, and shall prescribe rules for the government of police officers of the City, which rules may be amended or revoked from time to time. Such rules shall bear the signatures of the Chief of Police, the City Manager and the Mayor, shall be given to each police officer and shall be on file in the City Clerk's office. Every police officer and employee within the Police Department shall be given a copy of such rules and regulations and shall sign a copy stating that he or she has read and promises to abide by the same upon assumption of his or her official duties.

(2) He or she shall see that the applicable ordinances of the City and the laws of the State are duly enforced and the rules and regulations of the Police Department obeyed.

(3) He or she shall be charged with the duty of crime prevention, crime detection, criminal apprehension, police records, traffic control and the efficient conduct of the Police Department generally. He or she shall be responsible for the maintenance and care of all property used by the Police Department.

(4) As sergeant of arms, he or she shall attend personally, or by personal representative, all regular meetings of the City Council.

(5) He or she shall report monthly to the City Manager all arrests made by the Police Department, the dispositions of persons arrested, the number of persons remaining in confinement for ordinance violations and such other information as the City Manager may require.

(6) He or she shall render such accounts of the Police Department, his or her duties and receipts as may be required by the City Council, and keep the records of his or her office open to inspection by the City Council.

(7) He or she shall act as custodian of all lost, stolen or confiscated property which may be seized or otherwise taken into possession by the Police Department or may otherwise come into possession of the Police Department.

(8) He or she shall perform such other duties as may be prescribed for him or her from time to time by the City Manager. (Prior code 2-182; Ord. 811 §1, 2009)

Sec. 2-6-40. Duties of police officers.

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

- (1) They shall perform all duties required by the Chief of Police.
- (2) They shall be the enforcement officers of the City and shall see that all laws of the State and the provisions of this Code are complied with.
- (3) They shall arrest without process all persons engaged in the violation in their presence of any provision of this Code or the laws of the State. Upon such arrest, they shall convey such offenders before the proper official to be dealt with according to law.
- (4) They shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the City and pursue and arrest any person fleeing from justice in any part of the State.
- (5) They shall execute and return all writs and processes directed to them by the Municipal Judge in any case arising under a City ordinance, and they may serve the same in any part of the County.
- (6) They shall observe the condition of the streets, alleys and sidewalks of the City and of any obstruction or impediments thereon, and shall take necessary measures to remove or abate the same.
- (7) They shall bring to the immediate attention of the proper City official any condition creating a nuisance within the City, and shall take immediate measures to correct the nuisance where an emergency is created. (Prior code 2-183; Ord. 811 §1, 2009)

Sec. 2-6-50. Oath.

Before entering upon the duties of his or her office, the Chief of Police and each police officer shall take and subscribe an oath that he or she will support the Constitutions and laws of the United States and State and the Charter and ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Prior code 2-184; Ord. 811 §1, 2009)

Sec. 2-6-60. Police officers as witnesses.

Every member of the Police Department shall appear as a witness whenever needed in a prosecution for a violation of any municipal, state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the City is a party. The duty of appearing as witness for

the City without compensation shall outlive the police officer's employment, so long as the matter for which appearance is required was incidental to his or her City employment. (Prior code 2-185)

Sec. 2-6-70. Uniforms.

Every police officer, except the administrative personnel and as otherwise provided by the Chief of Police, shall wear at all times, while on duty, a uniform of the type and quality prescribed and furnished by the City. (Prior code 2-186)

Sec. 2-6-80. Assistance from citizens.

During any emergency, the Chief of Police or any regular member of the Police Department may request the aid of any private citizen, and shall have the authority to deputize any such person or citizen for the period of the emergency. It shall be the duty of every citizen so requested or deputized to perform all tasks or duties required of him or her to the best of his or her ability, and failure to do so will subject any such person to the full extent of the penalties prescribed by law. (Prior code 2-187)

ARTICLE 7

Emergency Management

Sec. 2-7-10. Emergency powers granted.

The City has experienced in the past and will, from time to time in the future, experience within its corporate limits fire, flood, civil disturbances and water and power shortages. It is the express purpose and policy of the City that, in order to protect the public health, welfare and safety of the citizens of the City, the Mayor, in addition to all other powers now existing or which may hereafter exist by virtue of the City Charter or ordinances of the City, is granted the additional authority and powers designated in this Article in times of emergency, as that term is described in Section 2-7-20 below. The power is to be exercised during such periods of time as the actual emergency exists, and the powers shall only be invoked after a declaration and proclamation by the Mayor that an emergency exists. (Prior code 5-1)

Sec. 2-7-20. Proclamation of emergency; authority to issue.

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

(1) A riot or unlawful assembly, characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute, by three (3) or more persons acting together without authority of law.

(2) Any natural disaster, force majeure or manmade calamity resulting in injury of persons or destruction of property, or potential injury to persons or destruction of property, of such an extent that extraordinary measures must be taken to protect the public health, welfare and safety. (Prior code 5-2)

Sec. 2-7-30. Manner of issuance of proclamation.

An emergency shall be declared in a written proclamation of the Mayor, which proclamation shall be delivered to the City Manager. The City Manager shall then be charged with the duty and responsibility of putting emergency measures into effect, including the proper publication and dissemination of information of the powers invoked by the Mayor by virtue of the proclamation. (Prior code 5-3)

Sec. 2-7-40. Duration of emergency.

Any emergency declared by proclamation of the Mayor shall remain in effect only so long as, in the opinion of the Mayor, the emergency powers granted in Section 2-7-10 above are necessary to be invoked for the health, welfare and safety of the residents of the City. The emergency shall be terminated by the Mayor by written proclamation stating that the emergency situation theretofore found to exist is no longer a condition that threatens the health, welfare and safety of the residents of the City. (Prior code 5-4; Ord. 811 §1, 2009)

Sec. 2-7-50. Restriction of activities.

(a) Whenever the Mayor proclaims that an emergency condition exists as defined in Section 2-7-20 above, he or she shall have the authority in his or her proclamation to make any or all of the following orders:

(1) To order the closing of all retail malt, vinous and spirituous liquor outlets and all fermented malt beverage outlets, and order the closing of all private clubs wherein the consumption of intoxicating liquor or beer is permitted.

(2) To order the discontinuance of the selling, distributing or giving away of any gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(3) To order the closing of gasoline stations and other establishments whose principal business activity is the sale or distribution and dispensing of liquid flammable or combustible materials.

(4) To order the discontinuance of the selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever, and order the closing of any or all establishments or portions thereof which engage in the sale, distribution, dispensing or giving away of firearms and/or ammunition.

(5) To designate certain areas of the City as being restricted against entry therein by any unauthorized persons, except bona fide residents living or working within the restricted area.

(6) To declare a public curfew during such hours as set forth in the proclamation, prohibiting all persons, except those expressly authorized, from being upon the public streets or in any public or private place in the City.

(7) To establish a communications headquarters for the dissemination of all public information, which shall be the official headquarters for any public report relating to the emergency.

(b) The powers enumerated in this Section shall be in addition to any other power or authority existing by virtue of the City Charter or ordinances of the City. (Prior code 5-5)

Sec. 2-7-60. Inability of Mayor to act.

Whenever the Mayor is absent from the City or unable to act, the emergency powers authorized in this Article maybe exercised to the same extent and under the same conditions that the Mayor could have exercised them, had he or she been present or able to do so, by the following public officials and in the following sequence:

(1) The Mayor Pro Tem.

(2) The senior Councilmember in length of service as Councilmember.

(3) Councilmembers in the order of the alphabetical sequence of the initials of their last names. (Prior code 5-6)

Sec. 2-7-70. Unlawful acts.

It shall be unlawful for any person to violate any provision of the proclamation declaring an emergency. (Prior code 5-7)

ARTICLE 8

Unclaimed Property

Sec. 2-8-10. Purpose.

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the City. (Prior code 2-251)

Sec. 2-8-20. Definitions.

Unless otherwise required by context or use, words and terms shall be defined as follows:

Owner means a person or entity, including a corporation, partnership, association, governmental entity other than the City, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the City.

Unclaimed property means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the City and which has not been claimed by its owner for a period of more than five (5) years after it became payable or distributable. (Prior code 2-251; Ord. 811 §1, 2009)

Sec. 2-8-30. Procedure for disposition of property.

The City Manager is authorized to establish and administer procedures for the administration and disposition of unclaimed property, including compliance requirements for other City officers and employees in the identification and disposition of such property. (Prior code 2-251; Ord. 811 §1, 2009)

Sec. 2-8-40. Lost, stolen or confiscated property.

(a) The Chief of Police, as custodian of lost, stolen or confiscated property, or any employee designated by the Chief of Police, shall keep a complete record of all property coming into possession of the Police Department. It shall be the duty of the Chief of Police to make such inquiry and examination as to the ownership of such property as he or she may deem necessary and, if the Chief of Police is satisfied that such property belongs to any person claiming the same, he or she is authorized to deliver such property to the claimant upon the claimant giving a proper receipt therefor.

(b) It shall be the duty of the Chief of Police to make a report to the City Manager at least once each year at a date to be determined by the City Manager. The report shall show all of the lost, stolen or confiscated property which has come into possession of the Police Department during the preceding year, and all such property which has been turned over to any person claiming the same as owner, showing the date when the property was delivered. The report shall also show the date when each and every article of such property was received and shall show whether or not any person has made claim to the property received and by whom such claim was made.

(c) As soon as practicable after the report required by Subsection (b) above is received by the City Manager from the Chief of Police, the City Clerk shall prepare a notice, which notice shall be published in the official paper of the City on two (2) different occasions. The notice shall be directed to the public and shall contain a list of all such property which is in the hands of the Police Department and which has remained in possession of the Police Department, unclaimed for a period of thirty (30) days prior to filing of the report referred to in this Section. He or she shall notify all persons who may have any claim of ownership or title to any such property mentioned in the notice required by this Section to present their claim for the same to the Chief of Police prior to a time which shall be fixed in the notice for sale of such property. The notice shall also state a time and place where all such unclaimed property shall be sold, and the time fixed for sale shall not exceed five (5) days from the last publication of the notice.

(d) At the time and place mentioned in the notice, it shall be the duty of the Chief of Police to attend and sell all the unclaimed property as described in Subsection (c) above at public auction for the highest and best price the property will bring in cash, and to receive from the purchaser of every article the amount paid by such purchaser. When the sale is completed, it shall be the duty of the Chief of Police to make a report to the City Manager giving a description of the articles so sold by him or her and the amount of money received for each of the articles. The Chief of Police shall deliver the proceeds to the City Manager, who shall then place the proceeds in the Police Department budget. In the event that any articles are not sold due to the lack of a purchaser, the articles may be given to charitable organizations, be retained for the City's use or be destroyed at the discretion of the Chief of Police or City Manager. (Prior code 2-252)

ARTICLE 9

Hearing Procedures

Sec. 2-9-10. Purpose.

The purpose of the rules of procedure for public hearings as set forth in this Article is to provide a uniform, consistent and expeditious method of procedure for the conduct of all hearings before the City Council or any board, commission or official of the City. The provisions of this Article shall be applied uniformly in all such hearings; provided, however, that any board, commission or official may supplement the provisions of this Article by the adoption of further rules of procedure not inconsistent with this Article. All rules adopted to supplement the provisions of this Article by any board, commission or official shall be reduced to writing, and copies thereof shall be made available to the public. These rules of procedure shall apply to all hearings held before the City Council or any board, commission or official of the City, unless other rules of procedure have been enacted by such board, commission or official which have conflicting provisions with these rules. (Prior code 2-121)

Sec. 2-9-20. Rights of participants.

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

- (1) The administration of oaths to all parties or witnesses who appear for the purpose of testifying upon factual matters.
- (2) Cross-examination, upon request, of all witnesses by the interested parties.
- (3) The stenographic or other verbatim production of all testimony presented in the hearing, or an adequate summary of such testimony.
- (4) A decision by the hearing body which shall set forth the factual basis and reasons for the decision rendered.

(b) Public hearings will be conducted in accordance with the following guideline procedures:

- (1) The Presiding Officer will either conduct the hearing or designate an appropriate official, such as the City Attorney or Municipal Judge, as Hearing Officer.
- (2) The Hearing Officer, in the order indicated, will:
 - a. Declare the public hearing open and presentation of those documents showing the proper process for commencement of the proceeding and the form of the public notice given.
 - b. Announce the public hearing procedures:
 1. Any person speaking or presenting any information at the hearing may be questioned by the Hearing Body and/or by the City Manager; the Hearing Officer may ask any questions necessary to clarify the testimony of any witness.

2. All appropriate documents or other items of physical evidence shall be marked as exhibits with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person.

c. Establish, when determined to be necessary, reasonable time limits for the hearing and reasonable time allocations to be established therein, with consent of the City Council.

d. Swear in witnesses testifying at the hearing.

e. Ask for an introductory presentation by the City Manager, if appropriate.

f. Ask for the petitioner's presentation.

g. Ask for the presentation of those who are opposed to the matter.

h. Ask for any rebuttal testimony.

(3) Following rebuttal, the Presiding Officer will ask if any member of the City Council has any questions of or desires any additional information from anyone who has spoken or has presented information during the hearing. If such is the case, a member of the City Council may direct the question and/or request through the Presiding Officer to such individual, and the response will be limited to the answer of the question as stated.

(4) Following questions from the Hearing Body, the Hearing Officer will declare the public hearing closed, and the matter will be remanded to the Hearing Body for consideration.

(5) Nothing contained in this Section shall be deemed to impose a requirement that all witnesses be sworn or that procedures be conducted according to formal rules of evidence.

(6) The Hearing Body may consider any matter which a majority thereof concludes is reasonably reliable and calculated to assist the Hearing Body in reaching an accurate determination of the issues involved.

(7) The Hearing Body is authorized to go into executive session for consideration of documents or testimony submitted at the hearing if a majority of the members present consent; provided that no decision or formal action shall be effective except upon a vote of the members of the Hearing Body, conducted in an open session thereof, which shall be duly recorded in the minutes of the public body. Written copies of all decisions shall be delivered to the applicant, petitioner, appellant or complainant and other interested parties requesting a copy. (Prior code 2-122, 2-124)

Sec. 2-9-30. Judicial enforcement and review.

Unless otherwise provided in this Code, any party aggrieved by any decision rendered by the hearing body in any quasi-judicial hearing, as well as department heads or other authorized officials of the City, may apply to have the decision reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure. (Prior code 2-125)

ARTICLE 10

Planning and Zoning Commission

Sec. 2-10-10. Legislative intent.

The City Council finds and determines that this Article relates to matters of local and municipal concern. It is the intent and purpose of the City Council, under its powers as City Council of a home rule city, that this Article shall take precedence over any and all statutes of the State in conflict with this Article and that this Article shall supersede, within its territorial limits and other jurisdictions, and overrule any statute of the State in conflict with any of the provisions of this Article. Any reference contained in this Article to the statutes of the State shall not be a limitation of the powers reserved to and asserted by the City Council in this Article. (Prior code 2-91, 2-93; Ord. 811 §1, 2009)

Sec. 2-10-20. Created; membership; term.

(a) Pursuant to the powers and duties conferred upon the City as a home rule city under the provisions of Section 6 of Article XX of the State Constitution, there is created and established a Planning and Zoning Commission.

(b) The Planning and Zoning Commission shall consist of three (3) members, other than members of the City Council. Appointments shall be made following the biennial election of the City Council members. One (1) City Council member shall be appointed by the City Council as an ex officio nonvoting member of the Planning and Zoning Commission. Two (2) alternate members shall be appointed by the City Council, who shall be authorized to have the same powers and act in the absence of any appointed members of the Planning and Zoning Commission. Members of the Planning and Zoning Commission shall be residents of the City; provided that one (1) of said members may be a nonresident of the City if said member is a City property owner.

(c) The terms of office of the members of the Planning and Zoning Commission, other than members of the City Council, shall be for the two (2) years next following the organization of the City Council and until their respective successors are appointed. The terms of the ex officio members shall correspond to their respective office tenures. (Prior code 2-94; Ord. 773, 2005; Ord. 811 §1, 2009; Ord. 826, 2011)

Sec. 2-10-30. Status as Zoning Commission.

Pursuant to Section 31-23-206, C.R.S., the Planning and Zoning Commission is appointed the Zoning Commission and is charged with the responsibilities of such Zoning Commission as specified in the state statutes. (Prior code 2-95)

Sec. 2-10-40. Purpose.

The Planning and Zoning Commission shall have and exercise all the powers and perform all the duties conferred and imposed upon it by law, including the following purposes:

(1) To prepare and maintain, subject to periodic revision as necessary, a Master Plan for the City.

(2) To implement the provisions of Chapters 12 and 13 of this Code, and to perform all functions and powers referred to in said chapters where reference is made.

- (3) To study and recommend to the City Council amendments to the Zoning Map of the City.
- (4) To study and recommend appropriate zoning classifications for all annexations to the City.
- (5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the Board of Adjustment.
- (6) To have all other duties and powers incidental to the above and any and all powers and duties set out by the City Council and state statutes, except that nothing herein shall permit the Planning Commission to make amendments or changes in the zoning of the City, such powers expressly being reserved by the City Council. (Prior code 2-96; Ord. 811 §1, 2009)

Sec. 2-10-50. Organization.

The Planning and Zoning Commission shall elect its Chair from among the appointed voting members and create and fill such other of its offices as it may determine. It shall adopt rules for transaction of business and keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. (Prior code 2-96; Ord. 811 §1, 2009)

Sec. 2-10-60. Compensation; other positions.

All members of the Planning and Zoning Commission shall serve as such without compensation. The appointed members shall hold no other municipal office, except as provided in Subsection 2-11-20(b) of this Chapter. (Prior code 2-97)

Sec. 2-10-70. Meetings.

The Planning and Zoning Commission shall meet in regular session at least once a month at a time and place selected by vote of its members; however, if there is no business to conduct on the agenda at least five (5) days prior to any regularly scheduled meeting, the chairman of the Planning and Zoning Commission may cancel the meeting. The City Council, the Chair of the Planning and Zoning Commission or any three (3) members of the Planning and Zoning Commission shall have authority to call special meetings of the Planning and Zoning Commission. Written notice of the special meetings shall be given to all members. (Prior code 2-98)

ARTICLE 11

Board of Adjustment

Sec. 2-11-10. Established.

The Board of Adjustment is hereby established. (Ord. 789 §18-31, 2006)

Sec. 2-11-20. Members; appointment.

(a) The Board of Adjustment shall consist of five (5) residents of the City and a nonvoting secretary who shall be appointed by the City Council.

(b) Not more than one (1) member of the Board of Adjustment may be a current member of the Planning and Zoning Commission. (Ord. 789 §18-32, 2006; Ord. 811 §1, 2009)

Sec. 2-11-30. Members; term; filling vacancy.

(a) Appointments to the Board of Adjustment shall be for a period of three (3) years; however, when vacancies occur prior to the expiration of a regular term, they shall be filled in the same manner as regular appointments, and the appointed member shall serve only until the expiration of the term in which the vacancy occurred.

(b) In addition to the regular members of the Board of Adjustment, the City Council may appoint two (2) alternate members for staggered three-year terms.

(c) In the event that any regular member is temporarily unable to act owing to absence from the City, illness, interest in a case before the Board of Adjustment or any other cause, his or her place may be taken during such temporary disability by an alternate member who shall enjoy full voting privileges. (Ord. 789 §18-33, 2006)

Sec. 2-11-40. Members; removal for cause.

The City Council shall have the power to remove any member of the Board of Adjustment for cause after official public hearing in which the member shall have the right to counsel and to confront hostile witnesses. (Ord. 789 §18-34, 2006)

Sec. 2-11-50. Chairman.

Members of the Board of Adjustment shall elect from among their members a chairman to serve for a term of one (1) year. (Ord. 789 §18-35, 2006)

Sec. 2-11-60. Vote to revoke official order.

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to revoke any order, requirement, decision or determination of any administrative official charged with the enforcement of this Chapter or to decide in favor of the applicant any matter upon which it is required to pass under this Chapter or to effect any variation in this Chapter. (Ord. 789 §18-36, 2006)

Sec. 2-11-70. Rules adoption; meetings.

(a) The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Chapter, which rules shall also provide for meetings of the Board.

(b) All meetings of the Board of Adjustment shall be open to the public. (Ord. 789 §18-37, 2006)

Sec. 2-11-80. Oaths, witnesses.

The chairman of the Board of Adjustment or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. (Ord. 789 §18-38, 2006)

Sec. 2-11-90. Records.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision, or, if absent or failing to vote, indicating such fact, all of which shall be a public record and immediately filed in the office of the City Clerk. (Ord. 789 §18-39, 2006)

Sec. 2-11-100. Powers.

The Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of Chapter 12 or as jurisdiction is otherwise conferred by this Code. The Board may reverse, affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from.

(2) To grant or deny variances from the provisions of Chapter 12 when the strict application of the regulations codified in such Chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. The Board of Adjustment may authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, provided that relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of such Chapter. In granting any variance, the Board of Adjustment may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of Chapter 12. (Ord. 789 §18-40, 2006; Ord. 811 §1, 2009)

APPENDIX 2-A

TABLE OF CONTENTS

Appendix 2-A Administrative Fees

Appendix 2-A-1 Liquor Licensing Fees

APPENDIX 2-A

Administrative Fees

<i>Description</i>	<i>Category</i>	<i>Fee</i>
Sales tax license		\$ 10.00
Adult-oriented business license	Initial license	200.00
	Annual renewal	50.00
General contractor license	Annual	25.00
Limited contractor license	Annual	25.00
Vendor permit	Annual	5.00
Dog tag	Annual	7.00
Annexation with Zoning		500.00
Major subdivision		1,000.00
Minor subdivision		400.00
Rezone		600.00
Special review use		400.00
Planned Unit Development (PUD)		1,000.00
Home occupation		30.00
Board of Adjustments	Accessory uses detached from principal structure and 200 sq. ft. or more	500.00
	Accessory uses detached from principal structure and less than 200 sq. ft.	250.00
Sign permit		15.00
Mobile home park permit		1,000.00
Plumbing permit	Single-family home and mobile home	50.00
	Duplex	100.00
	Multi-family, per each 15 F.U.E. or increment thereof	50.00
	Commercial, per each 15 F.U.E. or increment thereof	50.00

(Ord. 834, 2011)

**Appendix 2-A-1
Liquor Licensing Fees**

<i>License Type and Fees</i>	<i>Local Fee</i>
Application fee for new license	\$1,000.00
Application fee for new license with <i>Concurrent Review</i>	1,000.00
Application fee transfer of ownership	750.00
Art license	41.25
Beer & wine license	48.75
Brew-pub license	75.00
Club license	41.25
Hotel & restaurant license	75.00
Hotel & restaurant license with optional premises	75.00
Liquor license drugstore	22.50
Optional premises license	75.00
Racetrack license	75.00
Resort complex license	75.00
Retail gaming tavern license	75.00
Retail liquor store license	22.50
Tavern license	75.00
Vintner's restaurant	75.00
<i>Related Fees and Permits</i>	<i>Local Fee</i>
Annual renewal application fee	\$100.00
Addition of related facility permits to <i>Existing Resort Complex License</i> (each)	100.00
Art gallery application	100.00
Art gallery permit	3.75
Art gallery renewal application fee	100.00
Bed & breakfast permits	25.00
Branch warehouse or warehouse storage permit	0.00
Change of location	750.00
Change of trade name/corporate name	0.00
Corp/LLC change (per person) may be charged for <i>Background Investigation by Local OR State</i> (not both) <i>non Master File Only</i>	\$100.00
Duplicate license	0.00
Expansion-add optional premises to existing <i>hotel and restaurant</i>	0.00
Hotel/tavern manager's registration	75.00
Late renewal application fee	500.00

Master file – State issued	0.00
Mini bar permit (no OAP contribution) with <i>hotel/restaurant license</i>	325.00
Modification of premises	0.00
Retail warehouse storage permit	0.00
Special events permit (liquor) per event	40.00
Special events permit (3.2%) per event	40.00
Temporary permit	100.00
Winery direct shipper permit	0.00
3.2% Beer Licenses Fees	Local Fee
Retail 3.2% beer on premises	\$3.75
Retail 3.2% beer off premises	3.75
Retail 3.2% beer on/off premises	3.75

(Ord. 834, 2011)

APPENDIX 2-B
CITY COUNCIL PROCEDURE AND RULES OF ORDER
TABLE OF CONTENTS

Division 1 Authority

Division 2 Legislative Body, Officers and Customs Observed

- Section 1 City Council
- Section 2 Mayor – Presiding Officer
- Section 3 Mayor Pro Tem
- Section 4 Temporary Chairman

Division 3 The Council Meetings

- Section 1 Regular Meetings
- Section 2 Special Meetings
- Section 3 Quorum
- Section 4 Emergency Meetings
- Section 5 Work Sessions
- Section 6 Meetings to be Public
- Section 7 Executive Sessions
- Section 8 City Clerk – Minutes
- Section 9 Attendance
- Section 10 Agenda – Order of Business

Division 4 Parliamentary Procedure

- Section 1 Parliamentary Authority
- Section 2 Presiding Officer
- Section 3 Right to the Floor
- Section 4 Right of Appeal
- Section 5 Motions
- Section 6 Debate – Decorum
- Section 7 Voting
- Section 8 Votes Required for Passage of Ordinances
- Section 9 Reconsideration
- Section 10 Excusal During Meeting
- Section 11 Recess – During Meeting
- Section 12 Adjourning to a Later Date

Division 5 Resolutions and Ordinances

- Section 1 Resolutions
- Section 2 Ordinances
- Section 3 Reading of Resolutions and Ordinances

Division 6 Addressing the Council

- Section 1 Recognition
- Section 2 Place on Agenda – Scheduled Appearances
- Section 3 Citizens' Comments
- Section 4 Participation
- Section 5 Delegations
- Section 6 Anonymous Communications
- Section 7 Manner of Addressing – Time Limit

Division 7 Nominations and Elections

- Section 1 Nominations for Mayor Pro Tem, to Fill a Vacancy on the Council, and for Members for Councils and Commissions
- Section 2 Election to Fill Vacancy on the Council
- Section 3 Election for Mayor Pro Tem and Council and Commission Members
- Section 4 When Balloting Unnecessary

Division 8 Boards and Commissions

Division 9 Code of Behavior and Principles for City Council Members

Division 10 Adherence to and Suspension of Rules

- Section 1 Adherence to Procedures
- Section 2 Suspension of Rules

APPENDIX 2-B

City Council Procedure and Rules of Order

DIVISION 1

Authority

These Procedures and Rules of Order are established pursuant to the authority of the City Council of the City of Monte Vista, Colorado and in accordance with the exercise of Municipal powers as set forth in the Monte Vista City Charter and Article XX of the Colorado Constitution.

DIVISION 2

Legislative Body, Officers and Customs Observed

Section 1. City Council

a. The City Council is the legislative and governing body of the City. Each City Councilor shall be addressed as "Councilor (last name)," and the Mayor shall be addressed as "Mayor (last name)."

b. The term of office of the newly elected City Councilors and Mayor will begin on January 1 following their election, and the first regular meeting of City Council in January following election shall constitute its organizational meeting, at which time a Mayor Pro Tem shall be elected by Council and other periodic administrative matters, such as lease and contract renewals shall be conducted.

Section 2. Mayor – Presiding Officer

a. The Mayor shall be the Presiding Officer at meetings of the Council.

b. The Mayor shall have the same voting right as any other member of the Council, shall be recognized as the head of the City government for all ceremonial, dignitary and legal purposes, and shall sign and authenticate all legal instruments requiring his or her signing as such official.

Section 3. Mayor Pro Tem

a. The Council shall elect one (1) of its members to serve as Mayor Pro Tem by a majority of the members of the Council at each organizational meeting of the Council as specified in Paragraph I.b. above.

b. The Mayor Pro Tem shall preside at meetings of the Council in the absence or disability of the Mayor. In serving as Presiding Officer, the Mayor Pro Tem retains all of his or her rights and privileges as a Councilor, including those of voting on all questions and taking part in discussions.

Section 4. Temporary Chairman

a. In the event of the absence or disability of both the Mayor and Mayor Pro Tem, which prevents them from attending any meeting of the Council, the City Clerk shall call such meeting to order

and call the roll. The Council shall then proceed to elect, by majority vote of those present, a Temporary Chairman of the meeting.

b. The Temporary Chairman shall serve as Presiding Officer until the arrival of the Mayor or Mayor Pro Tem, at which time the Temporary Chairman shall relinquish the chair upon conclusion of the business immediately before the Council.

DIVISION 3

The Council Meetings

Section 1. Regular Meetings

The City Council shall meet in regular session upon the first and third Thursdays of each month at 7:00 p.m. in the City Hall. When a regular meeting date falls on a holiday or on a day of special observance, which is officially recognized by the City, such regular meeting shall be held on the preceding day at the same hour and place, or at such other time as may be designated in the preceding regular meeting. Any regular meeting may, upon majority vote of the City Council, be removed to any other location suitable to address the circumstances of the meeting.

Section 2. Special Meetings

a. Special meetings of the Council shall be called by the City Clerk on the request of the Mayor or any three (3) members of the Council. At least twenty-four (24) hours' advance notice of any special meeting shall be given to each member of the Council; and such advance notice shall set forth the date, hour, place and purpose of such meeting and shall be posted outside the Monte Vista City Hall. The City Clerk shall prepare such written notice, notify each City Councilor and cause the same to be posted as provided herein; and such notice shall be delivered by fax or e-mail and by telephone or personal notification.

b. A special meeting may also be called and notice thereof given by the Mayor or by the Council at any regular meeting of the Council, subject to the time and notice requirements set forth in Paragraph a., hereinabove; provided, however, that further notice of such special meeting will not be necessary for those Councilors present.

c. No business shall be conducted at a special meeting of the Council unless the same has been stated in the notice of such meeting (which purpose shall also be stated in the posted notice), except that any business, which may lawfully come before a regular meeting of the Council, may be transacted at a special meeting if all members of the Council present consent thereto.

d. All special meetings of the Council shall be held in the City Hall; provided that any special meeting may, upon majority vote of the City Council, be removed to any other location suitable to address the circumstances of the meeting.

Section 3. Quorum

A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all the Council meetings. In the absence of a quorum, a lesser number may adjourn any

meeting to a later date or time. In the absence of all members, the City Clerk may adjourn any meeting for not longer than one (1) week. In the event any meeting is adjourned to a later date, the City Clerk shall prepare and cause to be delivered to each member of the Council timely written notice setting forth the date and hour to which such meeting has been adjourned.

Section 4. Emergency Meetings

a. Emergency meetings of the Council may be called by the Mayor or, in his or her absence or disability, by the Mayor Pro Tem, or by any three (3) members of the Council in the event of a serious emergency which threatens the life, health and safety of the community.

b. At least one (1) hour's notice of an emergency meeting shall be given by the most expedient means, and a quorum shall be a majority of the Councilors physically present in the City. No business shall be transacted at an emergency meeting, except that pertaining to the emergency which necessitated the meeting.

Section 5. Work Sessions

a. Council work sessions may be held upon the call of the Mayor (or, in his or her absence, the Mayor Pro Tem), and the Mayor shall direct the City Clerk to make a diligent effort to give reasonable advance notice to each member of the Council, either in person, by telephone or otherwise, of the date, hour, place and purpose of such session. At least twenty-four (24) hours' notice shall be given of such sessions and by posting in the same manner as a special meeting.

b. Such sessions may also be called and notice thereof given by the Mayor or by the Council at any regular or special Council meeting, in which event further notice will not be necessary for those Council members present. Notice of work sessions may likewise be given in the same manner as special meetings. No business may be transacted by the Council at a work session.

c. The purpose of such study session will be stated at the time of its call and posting.

Section 6. Meetings to be Public

All regular or special meetings or work sessions of the Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard at such regular or special meetings as provided by these Procedures and Rules of Order.

Section 7. Executive Sessions

a. Members of the City Council, upon the affirmative vote of two-thirds ($\frac{2}{3}$) of the quorum present, may hold an executive session only at a regular or special meeting, except that no adoption of any proposed policy, position, resolution, rule, regulation or formal action shall occur at any executive session. No member of the Council shall discuss or divulge the contents or substance of any executive session to persons outside the session, and no City Councilor or participant shall disclose or discuss matters occurring in executive session except with another participant in such session.

b. The City Council may only hold an executive session to discuss:

(1) Section 24-6-402(4)(a), C.R.S., Real, personal or other property transactions (unless the meeting is being held for the purpose of concealing the fact that a member of the City Council has a personal interest in such a transaction).

(2) Section 24-6-402(4)(b), C.R.S., Specific legal advice from an attorney.

(3) Section 24-6-402(4)(c), C.R.S., Matters required to be kept confidential by federal or state law.

(4) Section 24-6-402(4)(d), C.R.S., Specialized details of security arrangements or investigations.

(5) Section 24-6-402(4)(e), C.R.S., Determining positions relative to matters that may be subject to negotiations developing strategy for negotiations and instructing negotiators.

(6) Section 24-6-402(4)(f), C.R.S., Personnel matters (unless the employee or employees who are subject of the meeting request that the meeting be open).

(7) Section 24-6-402(4)(g), C.R.S., Documents protected by the mandatory nondisclosure provisions of the Open Records Act.

Section 8. City Clerk – Minutes

a. The City Clerk, or the Clerk's designated representative, shall attend and shall keep the minutes of each regular or special meeting of the Council and of any executive session in accordance with the provisions of Section 24-6-402, C.R.S.; provided that no Attorney-Client privileged communications will be recorded as therein provided.

b. The minutes of each such meeting shall record in full all motions, resolutions and ordinances. Otherwise (with the exception of public hearings), the minutes of meetings shall record what was done rather than what was said.

c. A Councilor shall have the privilege of having his or her statement on any subject then under consideration by the Council entered into the minutes. Such request must be made before the Presiding Officer puts the question to a vote.

d. The City Clerk shall have the minutes of a special Council meeting prepared and delivered to each member of the Council on or before the Tuesday preceding the regular meeting at which such minutes are to be approved.

e. Minutes will not be read, provided that each member of the Council has been submitted a copy of the minutes of the previous meeting in advance of the meeting at which they are to be approved. Approval of minutes will be done by general consent, and a motion for approval will not be necessary. Accordingly, the minutes will then be approved "as previously submitted by the City Clerk," or approved "as corrected."

f. Minutes shall be signed by the Presiding Officer and by the Clerk of the meeting at which the minutes are approved.

Section 9. Attendance

In the event any member of the Council is unable to attend any meeting or work session of the Council, such member shall make a reasonable effort to so advise the Mayor or City Clerk in advance of the meeting.

Section 10. Agenda – Order of Business

a. Regular meetings of the Council will have an established order of business generally according to the following guidelines (which may be modified at any meeting by vote of the quorum present):

- (1) Call to Order.
- (2) Pledge of Allegiance.
- (3) Roll Call.
- (4) Modifications to Agenda.
- (5) Approval of Consent Agenda.
- (6) Approval of Minutes.
- (7) Proclamations, Communications, and Appointments.
- (8) Citizen Comments/Special Presentations.
- (9) Public Hearings.
- (10) Licenses/Liquor Renewals.
- (11) Resolutions.
- (12) Ordinances.
- (13) Contracts/Agreements/Leases.
- (14) Receive and Approve Accounts Payable and Financial Reports.
- (15) Staff proposals, reports and actions.
- (16) Council Committee, City Commission and Councilor Reports.
- (17) Recess/Adjournment of Meeting.

b. In order to expedite matters of general importance or for the convenience of the public, the Presiding Officer may, by general consent, vary from the established order of business at any regular meeting if other members of the Council do not object. If any such objection is made, a majority vote of those Councilors present will be necessary to change the order of business.

c. On the Tuesday preceding each regular meeting of Council, the City Clerk shall cause to be prepared a written Agenda showing the order of business for the succeeding regular meeting and the City Clerk shall cause such written Agenda and meeting binder to be delivered to the Mayor and to each member of the Council and to be posted outside the City Hall not later than Tuesday preceding a regular Council meeting.

d. Any combination of items on the Agenda, which are deemed to be routine and not requiring discussion may be combined as a "Consent Agenda" and passed by a motion duly made and seconded, and approved by a majority of the quorum of Council members present (except where a greater number of voting member approval is required by law).

DIVISION 4

Parliamentary Procedure

Section 1. Parliamentary Authority

Robert's Rules of Order, Newly Revised, Latest Edition, shall be the parliamentary authority for all meetings of the Council, and the rules contained therein shall govern the procedures utilized at such meetings in all cases where applicable and where not inconsistent with the Colorado Revised Statutes, or where not otherwise delineated by these Procedures and Rules of Order, as amended.

Section 2. Presiding Officer

The Presiding Officer shall be responsible for conducting the meetings of the Council in an orderly manner, shall state every question coming before the Council, shall announce the decisions of the Council on all subjects and shall decide all questions of order subject to appeal by the Council.

Section 3. Right to the Floor

a. Councilors who wish to speak and obtain the floor shall indicate their wish by raising their hands. Such procedure shall be addressed to the Presiding Officer and shall constitute a Councilor's request to be assigned the floor.

b. To assign the floor, the Presiding Officer shall recognize the Councilor by stating the member's name – e.g., Councilor (last name)." The Presiding Officer will recognize the Councilor who first requests the floor after it has been relinquished.

c. A Councilor shall not speak while another member has the floor, except as may be permitted by *Robert's Rules of Order, Newly Revised, Latest Edition*.

Section 4. Right of Appeal

Any Councilor may appeal to the Council at large from a ruling of the Presiding Officer. If the appeal is seconded, the member making the appeal may briefly state his or her reason for same, and the Presiding Officer may briefly explain his or her ruling; but there shall be no debate on the appeal. The Presiding Officer shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the Councilors present vote "Yes," the ruling of the Chair is sustained; otherwise, it is overruled.

Section 5. Motions

- a. Motions are used to give direction to the operation of the City Council.
- b. Motions are generally introduced by voice. However, if lengthy or involved, a motion should be in writing; and, in any event, any two (2) members of the Council may ask that a motion be put in writing.
- c. Main motions must have a second and have been stated by the Presiding Officer before debate or discussion. The Chair may not second a motion.
- d. Secondary motions are motions that propose to do something regarding the main motion, such as to amend, limit, table, postpone discussion or refer the matter to a committee.
- e. Privileged motions may be brought up at any time and must be decided before returning to other business. Such motions are to adjourn, recess, and keep to agreed order of business and motions on questions of privilege or rights.
- f. The withdrawal of a main motion automatically cancels all of the secondary motions regarding the main motion.
- g. A motion may be withdrawn before it has been stated by the Presiding Officer. After a motion has been so stated, such motion may not be withdrawn without a majority vote of the Councilors present.
- h. Motions shall be acted upon after they are introduced, seconded (when required) and stated by the Presiding Officer.
- i. The Mayor may not veto a motion.

Section 6. Debate – Decorum

- a. When recognized by the Presiding Officer, a Councilor shall confine his or her remarks to the question then under discussion and shall avoid personalities.
- b. Debate on each subject or debatable motion shall not exceed ten (10) minutes by any one (1) member of the Council, unless such member is given consent by the Council.
- c. A Councilor shall speak only once on the question until all of the members of the Council who wish to speak have had the opportunity to do so.
- d. No Councilor shall speak more than twice to the same point on any question.

Section 7. Voting

- a. Every Councilor present, when a question is put, shall vote either "yes or "no," unless previously excused by the Council. Application to be excused from voting shall be made before the question is put to a vote by the Presiding Officer. The Councilor requesting to be excused from voting will briefly state the reasons for such request, and such reasons will be entered into the minutes. The Council's decision will be made without debate.

b. The minutes shall record how each Councilor voted on each question, except that where the vote was unanimous, it shall only be necessary for the minutes to so state.

c. All roll call votes shall be-taken in alphabetical order in a rotating manner, as follows: On the first roll call vote, the Clerk will begin with the first name on the list; on the second vote, the Clerk will begin with the second name and end with the first and continue to rotate the order in this manner. Such rotation will continue without interruption from meeting to meeting.

d. A Councilor has the right to change his or her vote up to the time but before the vote is announced by the Presiding Officer; after that, a Councilor may change his or her vote only by permission of the Council, which can be given by general consent, or by the adoption of a motion to grant permission, which motion is undebatable.

e. No Councilor shall be permitted to explain his or her vote during voting or after the vote is announced.

Section 8. Votes Required for Passage of Ordinances

All ordinances shall require the affirmative vote of the majority of the quorum present for passage.

Section 9. Reconsideration

After the decision on any question, any Councilor who voted with the prevailing side may move a reconsideration of any action at the same or at the next succeeding regular meeting within the same session; provided however, that an action of the Council authorizing or relating to any contract may be reconsidered at any time prior to the final execution thereof. A motion to reconsider may be seconded by any member of the Council and shall require a majority vote of the Councilors in office for adoption. After a motion to reconsider has been once voted on and lost, it shall not be introduced again except by unanimous consent of the Council.

Section 10. Excusal During Meeting

No member of the Council, after roll call, may leave the City Hall during a regular or special meeting of the Council without permission of the Presiding Officer.

Section 11. Recess – During Meeting

The Presiding Officer may, at any point in the Agenda, declare a recess for a specified time.

Section 12. Adjourning to a Later Date

Any session of the Council may be continued or adjourned from day to day, or for more than one (1) day, but no adjournment shall extend beyond the next regular meeting date. The first order of business at an adjourned meeting shall be the business not concluded at the preceding session of that adjourned meeting. Such adjournment from a regular meeting to a later date shall be by general consent or otherwise by a majority vote of the Councilors present.

DIVISION 5

Resolutions and Ordinances

Section 1. Resolutions

a. Resolutions are acts of a relatively permanent nature and will remain in effect until rescinded or amended by the Council.

b. Resolutions may be used on formal statements of policy which are not required to be adopted by ordinance, on matters involving lengthy or complex questions, on administrative or executive matters and for such other purposes as the Council may determine.

c. All resolutions must be introduced in written form and filed with the City Clerk at least two (2) days prior to a regular Council meeting at which they are to be introduced, except as provided in Paragraph d. below.

d. Any member of the Council who wishes to introduce, at a meeting of the Council, a written resolution, which has not been filed as provided for by Paragraph c. above, may do so if such request is approved by majority vote of the quorum present at such meeting. Upon submitting such a request, the Presiding Officer shall put the question, "Shall Councilor (last name) be permitted to introduce a resolution regarding (subject matter)?"

e. A resolution shall refer to only one (1) subject and shall carry a title stating the subject.

f. Resolutions shall be numbered chronologically in the order introduced within each calendar year.

g. A resolution shall be signed by the Presiding Officer and the Clerk of the meeting at which the resolution was adopted.

Section 2. Ordinances

a. An ordinance is considered the most authoritative form of action the Council can take. An adopted ordinance becomes an established rule or law of the City and remains in effect until otherwise rescinded or amended by the Council.

b. Procedure for passage of ordinances shall be as is set forth in the Monte Vista City Charter.

c. An ordinance shall be introduced in written printed form and shall carry a title stating the subject of the ordinance.

d. Ordinances shall be numbered in the order in which they were introduced upon reading.

Section 3. Reading of Resolutions and Ordinances

Every resolution or ordinance shall be read in full at the Council meeting at which same is considered; provided that, in cases where copies of the resolution or ordinance are available to the Council and to those persons in attendance at the Council meeting, such resolution or ordinance may, upon motion duly made and passed, be read by title only.

DIVISION 6

Addressing the Council

Section 1. Recognition

At any regular or special meeting of the Council, any person desiring to address the Council shall first secure the permission of and be recognized by the Presiding Officer.

Section 2. Place on Agenda – Scheduled Appearances

Any person who desires to appear before and to address the City Council may be scheduled to appear by advising, in writing or by phone, the City Manager or the City Clerk's office of such request not later than 12:00 p.m. on the Monday preceding a regular Council meeting unless good cause, in the discretion of the City Manager or City Clerk, is shown for reducing the time for scheduling. The request shall outline the subject matter desired to be presented and shall indicate the address of the person submitting the request. When this procedure is followed, the person's name and the subject matter desired to be discussed will be listed on the Agenda. Any person desiring to address the Council will be requested to fill out a "Public Comment" form to be obtained from the Clerk at least forty-eight (48) hours in advance of the meeting and present the completed form to the Clerk.

Section 3. Citizens' Comments

Residents and, where a nonresident has a directly affected interest (such as ownership of property in the City where an increase in assessment or fees for services for such property is being considered), with the permission of the Presiding Officer, nonresident taxpayers of the City may address the Council at any regular meeting, by written or oral communications, on any matter concerning the City's business or any matter over which the Council may have control, and may do so under the Citizens' Comments section of the Agenda; provided, however, that time preference will be given to those persons who may have notified the City in advance of their desire to speak in order that they may appear on the Agenda of the Council.

Section 4. Participation

On debatable questions and open hearings, any interested person, as described in Section 3 above, may address the Council by written or oral communications regarding any matter then under discussion at a Council meeting.

Section 5. Delegations

When delegations attend Council meetings, such delegations shall designate to the Presiding Officer which persons are to speak for them.

Section 6. Anonymous Communications

Unsigned communications will not be introduced to the Council.

Section 7. Manner of Addressing – Time Limit

a. Each person addressing the Council shall give his or her name and address for the record, shall state the subject he or she wishes to address and shall limit the address to a reasonable time, which is normally deemed to be three (3) minutes. The Presiding Officer, for good cause, may extend such time for a reasonable time to allow such person to complete his or her presentation. All comments shall be addressed to the Presiding Officer and to the Council as a body and not to any particular member thereof. The Presiding Officer shall not allow unruly, derogatory or sarcastic comments from any person addressing the Council.

b. In consideration of the number of business items that normally come before Council meetings, the Presiding Officer may specifically set the allotted time for and limit any and all addresses with the general consent of the Council.

DIVISION 7 Nominations and Elections

Section 1. Nominations for Mayor Pro Tem, to Fill a Vacancy on the Council, and for Members for Councils and Commissions

Nominations for Mayor Pro Tem, for an appointment to fill a vacancy on the Council and for members to serve on the Council and commissions may be made "from the floor" by any Councilor who wishes to propose a name for such position. (Any person so nominated can, at this time, withdraw his or her name from nomination.)

Section 2. Election to Fill Vacancy on the Council

Elections to fill a vacancy on the Council may be held by secret ballot or by roll call vote. After the votes are cast, the City Clerk will collect and count the votes. The Mayor will then announce the results. If any of the nominees receives a vote of the majority of the remaining Councilors in office on

the first ballot, he or she shall be declared elected. If none of the nominees receives such a majority vote at the end of the first balloting, the candidate receiving the fewest number of votes will be dropped as a candidate unless the elimination of such name (or names in cases of a tie vote) would leave only one (1) candidate for the office. This process will continue until one (1) candidate receives the majority vote of the remaining Council members in office.

Section 3. Election for Mayor Pro Tem and Council and Commission Members

Elections to fill the position of Mayor Pro Tem and to fill positions on the Council and commissions will be conducted in the same manner as elections to fill a Council vacancy as provided by Section 2. above, except that a majority of the Councilors present shall be sufficient to decide the question. Persons so appointed shall continue to hold office until a successor is appointed.

Section 4. When Balloting Unnecessary

If nominations are closed with no more candidates being nominated than there are positions to be filled, the candidate(s) so nominated shall thereby be appointed and no balloting shall be required.

DIVISION 8
Boards and Commissions

Standing commissions and advisory boards, comprised of citizens of the community, may be established by the Council. The Council shall be provided with copies of the minutes of all board and commission meetings. Ad hoc committees may likewise be appointed and terminated by the Council.

DIVISION 9
Code of Behavior and Principles for City Council Members

1. Individual Council members may not speak or act for the Council except when formally given such authority for specific purposes by the Council. Such authority will be carefully stated in order not to conflict with authority delegated to the City Manager.

2. Council committees are to make recommendations to the City Council and help the Council do its job, not to supervise staff doing its job. Committees will assist the Council chiefly by preparing policy alternatives and implications for Council deliberations.

3. Individual Councilors shall not exercise authority over staff, and individual Council members will ordinarily have no direct dealings with current staff operations in accordance with the Council-Manager form of government described in the Monte Vista City Charter and the Colorado Revised Statutes.

DIVISION 10
Adherence to and Suspension of Rules

Section 1. Adherence to Procedures

These Procedures and Rules of Order are intended to govern the organization and meetings of the City Council, to govern the actions of the Council in the conduct of its business and to serve as a reference in handling parliamentary questions. In handling routine business, the Council may, by general consent, use a more informal procedure than that set forth in these Procedures and Rules of Order.

Section 2. Suspension of Rules

Any provision of these Procedures and Rules of Order may be temporarily suspended at any meeting of the Council by a majority vote of the quorum present or may be temporarily suspended by general consent if a temporary suspension is presented by the Presiding Officer and if there are no objections from any member of the Council.

APPENDIX 2-C
PERSONNEL RULES AND REGULATIONS

TABLE OF CONTENTS

Division 1	Performance Management Policy and Procedure
Division 2	Safety Policy and Procedure
Division 3	Seat Belt Policy
Division 4	Discipline Policy and Procedure
Division 5	Workplace Security Anti-Violence Policy
Division 6	Workers' Compensation Policy
Division 7	Travel Policy and Procedure
Division 8	Vehicle Usage Policy
Division 9	Driver's License Policy
Division 10	Drug and Alcohol Policy

APPENDIX 2-C

Personnel Rules and Regulations

DIVISION 1

Performance Management Policy AND PROCEDURE

POLICY

The City of Monte Vista is implementing a Performance Management System that is aligned with the strategic plan of the City. The Performance Management System will be driven from the top and tied to:

- (1) Vision.
- (2) Mission.
- (3) Goals of all divisions and departments.

IMPLEMENTING PERFORMANCE MANAGEMENT SYSTEM

The Performance Management System will facilitate and ensure the implementation of the three (3) key functions of the performance management process — planning, coaching and assessing performance.

(1) Planning: Developing Performance Expectations. Employees who understand what is expected of them perform better on the job than those who are not clear about expectations. When a person is new in the job and at the beginning of each review period, expectations will be established formally and communicated clearly. Expectations will be based on job description, policies and procedures, performance standards, goals, objectives, desired behaviors and other relevant items.

(2) Coaching: Documenting Performance and Providing Feedback. An important part of the performance appraisal process will involve documenting performance and giving feedback throughout the review period, both to reinforce desired behavior and to improve performance when needed. To be effective, feedback will be given as soon as possible after an action occurs.

(3) Assessing: Evaluating Performance. By reviewing the performance data over the entire review period and comparing the data to the expectations, the supervisor will be able to accurately complete the review form and summarize the communications about performance in the review.

LEGAL CONSIDERATIONS

The Performance Management System will ensure the following actions will be in place to make the system more effective and defensible.

(1) Job related — Performance appraisals must be based on job-related criteria rather than abstract traits or personality. Job-related criteria falls into these categories:

- a. Job description.
- b. Performance standards.
- c. Outcomes/goals/results.
- d. Examples of actual performance.
- e. Expected behaviors.
- f. Work policies and procedures.

(2) Honest — Performance appraisals must be an accurate reflection of an employee's performance throughout the year. Documentation is vital to keep an accurate accounting of the employee's performance.

(3) Consistent — Appraisals will be conducted in accordance with the City's Policy and Procedures. The same criteria must be used to evaluate employees in the same jobs throughout the City.

(4) Next level review — If the Supervisor has performed the performance appraisal, the Department Director must review the performance appraisal before it is given to the employee.

(5) Signatures — For documentation purposes, an employee will sign the form to acknowledge that their performance has been appraised and discussed with them. The form will also be signed by the Supervisor and the Director.

(6) Appeals — The performance appraisal program will include an internal process for the employee to appeal the appraisal results. If the employee wants to file a complaint about their proposal, they will report the incident to the Department Director or Human Resources. The complaint will be promptly investigated, and the appropriate action will be taken.

(7) Monitoring — Performance appraisals will be monitored by the City Manager and/or Human Resources to make sure ratings and supporting examples of demonstrated performance are consistent with decisions made on employee salary increases, promotions, etc.

STRATEGY FOR SUCCESS

Strategies that will enhance the success of the performance management system for the City of Monte Vista are:

(1) Training for the Department Directors and Supervisors. Training helps supervisors understand how effective performance management works to their benefit and enhances the development of a dedicated employee.

(2) Remembering that performance management is a day-to-day coaching activity. It begins with the supervisor and employee collaboratively setting expectations. It progresses with good documentation and two-way communication and concludes with goal setting for the next year.

(3) Acknowledgment that the performance appraisal is a document for recording past performance, but realizing the emphasis should also be placed on looking ahead and setting goals for the future.

(4) Receiving a complete "buy-in" of the performance management system from all Department Directors and Supervisors. Their support is essential if the employees are being asked to do more and step outside of their defined job descriptions.

DIVISION 2

Safety Policy and Procedure

GENERAL SAFETY RULES

The following lists only some of the key safety rules. The list is not intended to be exhaustive or all-inclusive. Each department may prepare separate safety rules applicable to the specific nature of work in its area, but not in conflict with these rules:

(1) Proper training and extreme caution are required by all employees operating any type of power equipment.

(2) Employees will use personal protective equipment appropriate to the job, such as safety glasses, gloves, safety shoes and hard hats, if required or appropriate to the work performed.

(3) Employees will avoid wearing loose clothing and jewelry while working on or near equipment and machines.

(4) All accidents, regardless of severity, personal or vehicular, are to be reported immediately to the employee's supervisor.

(5) Defective equipment must be reported immediately to the supervisor.

(6) Supervisors will conduct a safety inspection at least annually of significant operations and properties.

(7) Employees will not operate equipment or use tools for which appropriate training has not been received.

(8) Material Safety Data Sheets (MSDS) will be made available to employees handling materials to which such MSDS pertain.

(9) Proper trenching and excavation procedures will be followed by employees involved in such operations.

(10) Proper confined space entry procedures will be followed by employees involved in such operations.

(11) Work zone protection will be utilized when work is performed on a public way.

Employees are encouraged to think about how to make their workplace safer for both themselves and their coworkers. Suggestions on improving safety at the City of Monte Vista are welcomed and should be directed to the employee's supervisor.

Employees will be evaluated on their safety performance as part of their overall performance evaluation.

EMPLOYMENT-RELATED ACCIDENTS, INJURIES, AND ILLNESSES

Any employment-related accident involving any injury or property damage whatsoever must be reported to the immediate supervisor by each employee involved in or witnessing the accident. Such report shall be made immediately. Failure to report any accident involving injury or property damage may result in disciplinary action up to and including discharge.

Employees are covered for employment-related injury or illness by the Colorado Workers' Compensation Act. Under the Act, an employee may receive certain benefits pertaining to an employment-related injury or illness.

Under the Act, a work-related injury or illness must be reported within four (4) working days.

To the extent practicable, the employee will be reinstated to the employee's position upon return from leave for an employment-related injury or illness. Modified duty may be available to facilitate a return to work by an employee if the operations of the City of Monte Vista permit.

The City of Monte Vista has selected The San Luis Valley Regional Occupational Medical Program (ROMP) and Monte Vista Family Practice Clinic as its designated providers of medical care for employment-related injuries and illnesses.

The City of Monte Vista will comply with the Americans With Disabilities Act (ADA) with regard to reasonable accommodations for an employee whose employment-related injury or illness results in a disability to which the ADA applies.

COORDINATION OF WORKERS' COMPENSATION BENEFITS AND INJURY LEAVE

At the point in time that Workers' Compensation benefits begin, the City of Monte Vista will no longer pay any compensation to the injured employee. However, injury leave may be coordinated with sick leave, vacation, comp and holiday time so that the employee shall have the option to claim these benefits for the difference between benefits paid by Worker' Compensation and the employee's full salary to the extent of all of the accumulated employee's leave.

DIVISION 3 SEAT BELT POLICY

PURPOSE

The purpose of this policy is to establish a uniform seat belt policy for the City of Monte Vista. The City recognizes that the use of seat belts reduces the potential for death or injury when passenger vehicles, trucks and motorized equipment are involved in accidents. It is therefore the intent of the City

to reduce the potential for death or injury to City employees and other occupants of said vehicles being operated in the performance of City business.

POLICY

All employees operating or riding in City-owned or privately owned vehicles, trucks and motorized equipment equipped with seat belts must use seat belts when said vehicles are being operated in the performance of City business.

All nonemployees riding in City-owned or privately owned vehicles, trucks and motorized equipment furnished with seat belts being operated in the performance of City business must use seat belts.

As with any uniform policy, certain exceptions are often necessary. For the above-stated Seat Belt Policy, the following exceptions are authorized:

(1) Any person possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a seat belt shall be exempt from this policy.

(2) The seat belt requirement is temporarily waived for sworn personnel only in situations where the use of safety belts or other restraining devices inhibits the efficient conduct of law enforcement operations.

Failure to use seat belt devices as directed by this Policy will result in disciplinary action. It may also result in the loss of entitlement to a portion of Workers' Compensation benefits in the event an injury is sustained while operating or riding in a department vehicle.

DIVISION 4

Discipline Policy and Procedure

DISCIPLINARY ACTION

Certain provisions of this Policy state that disciplinary action may result from specified conduct. The inclusion of these provisions does not limit and is not intended to limit in any way the imposition of disciplinary action for other types of conduct or for other reasons.

The type of discipline to be imposed for an infraction shall be that which the City of Monte Vista, through the City Manager, Department Directors or Supervisors, deems appropriate under the circumstances; each may, in his or her discretion, determine that any of the following disciplinary actions is appropriate and may determine the order of any such disciplinary actions. As the Appointing Authority, the City Manager's decision regarding any disciplinary action is considered final.

Disciplinary action may include:

(1) Oral warning or reprimand. The employee is orally counseled as to the unsatisfactory areas of work and methods of improvement.

(2) Written reprimand. The employee is issued a written reprimand, which includes a statement of the problem and a notation to the effect that the problem was discussed with the employee. A copy of the reprimand is placed in the employee's personnel file. The reprimand may also place the employee back in an evaluation period for a specified time.

(3) Suspension without pay. The employee is suspended from employment for any number of days, depending on the seriousness of the problem, without pay.

(4) Disciplinary demotion. The employee is placed into a position with a lower compensation rate for disciplinary reasons.

(5) Discharge. The employee is discharged from employment.

DISCIPLINARY RULES

In addition to any other conduct described in this Policy, the following conduct may result in disciplinary action, up to and including discharge:

(1) Inadequate job performance, incompetence or inefficiency.

(2) Insubordination.

(3) Conduct unbecoming to an employee of the City of Monte Vista.

(4) Violation of any lawful rule, regulation, policy or order, or failure to obey any proper directive made and given by his or her supervisor.

(5) Taking a fee, gift or other valuable things in the course of or in connection with work for personal use from any person, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.

(6) Conviction of, a plea of guilty to or failure to contest a crime which involves moral turpitude or which affects the employee's ability to perform a job function.

(7) Falsification of or material omission from an employment application, payroll records, time reports or other City of Monte Vista documents.

(8) Negligent or willful damage, destruction, waste, carelessness or misuse of City of Monte Vista or public property.

(9) Theft of City of Monte Vista property.

(10) Use of or attempting to use political influence in securing a promotion, leave of absence, transfer or change of grade, pay or character of work.

(11) Improper use of City of Monte Vista vehicles or equipment, including communications equipment.

(12) Violation of safety rules or practices.

- (13) Unauthorized absence or unauthorized failure to report for work.
- (14) Frequent or habitual tardiness.
- (15) Leaving assigned work area without prior authorization.
- (16) Possession of firearms or dangerous weapons on City of Monte Vista property, other than as required or permitted in the performance of official duties.
- (17) Abuse of leave.
- (18) Abuse of break periods.
- (19) Release of confidential information of the City of Monte Vista except as required or authorized by law.
- (20) Violation of the City of Monte Vista's prohibited harassment policy, drug and alcohol policy or workplace violence policy.
- (21) Inducing or encouraging any employee of the City of Monte Vista to violate any City of Monte Vista ordinance, rule, regulation, policy or directive.
- (22) Engaging in any unauthorized interruption or work.
- (23) Failure of a nonexempt employee to obtain advance authorization for overtime work.
- (24) Loss of any license, certificate or other credential required for the performance of a job responsibility.
- (25) Violation of any other applicable City of Monte Vista policy concerning employee conduct.
- (26) Any other activity which is not compatible with good public service.

The foregoing list is not exhaustive. Employees shall be subject to discipline under other appropriate circumstances.

DIVISION 5

Workplace Security Anti-Violence Policy

POLICY

The City of Monte Vista is committed to providing a violence-free and safe workplace for its employees. In keeping with this commitment, the City has established an anti-violence policy that prohibits actual or threatened violence by employees against coworkers, other persons or property.

All credible reports of such incidents will be examined and investigated if necessary. The key to prevention is reporting any and all threats. Employees shall immediately report incidents of violence,

threats (whether direct or indirect), intimidation and any other disruptive or inappropriate behaviors, whether directed against them or others. The only exception to this is City of Monte Vista police officers who receive threats from citizens in the normal course of duty.

WARNING SIGNS OF POTENTIAL WORKPLACE VIOLENCE

Employees should understand that certain risk factors and behavior patterns might offer early warning signs of potential violent conduct. The City does not expect employees to become experts in psychology or for any employee to physically confront or subdue a threatening or potentially dangerous individual. On the contrary, the City discourages employees from engaging in a confrontation with any potentially violent or dangerous individual. However, the City does expect employees to exercise reasonable judgment in identifying and reporting potentially dangerous situations in a timely and proper manner as outlined in this administrative regulation.

PROHIBITED WORKPLACE BEHAVIORS

Every threat of violence at work or involving a work situation is serious and must be treated as such. Threatening behavior can include, but is not limited to, such actions as:

- (1) Making a verbal threat to harm another individual or destroy property.
- (2) Throwing objects with the intent to damage property or harm or intimidate others.
- (3) Making menacing gestures or nonverbal communications intending to intimidate, harass or create fear.
- (4) Displaying an intense or obsessive romantic interest that exceeds the normal bounds of interpersonal interest and affection.
- (5) Attempting to intimidate, harass or frighten others through any indirect or veiled means, inside or outside the workplace.
- (6) Engaging in any behavior while on or off City time and/or property that is intended to intimidate, harass, create fear in or harm another person, irrespective of their position or relationship with the City, when the behavior would interfere with an employee's performance of his or her job or undermine public trust in the integrity of the City.

Employees who engage in such behavior may be removed from City-controlled property and may be subject to disciplinary action, up to and including termination. Furthermore, employees who become aware of any of the above behaviors, irrespective of whom they may be directed to or where they occurred, must report them immediately to their supervisor. If the person showing such behaviors is the employee's supervisor, the employee must report to Human Resources directly.

SEARCHES AND INSPECTIONS

The City reserves the right to conduct reasonable searches and inspections of employees, their personal effects, their personal vehicles and/or any City-controlled office, desk, tool, vehicle, equipment, computer, electronic document or file, electronic storage device, network, documents, papers or work space without notice. Such efforts shall not constitute an intrusion into the privacy of an employee or

individual, and as such, employees or said individuals have no expectation of privacy in the workplace or City-controlled property with regard to such searches or inspections at any time.

PROTECTIVE ORDERS

In the event an employee obtains a lawfully granted restraining order or any other protective order against any person, which includes City-controlled property, the workplace or that of others with whom they work, that employee shall report such order and provide a copy of it to his or her supervisor upon issuance. The supervisor must then contact the Human Resource Department within twenty-four (24) hours of receiving the information from the employee. The City reserves the right to monitor such orders and take whatever action it sees fit to enforce this policy and protect its employees relative to such orders. Failure to report attainment of an order in a timely fashion or cooperate with this provision of this administrative regulation may result in disciplinary action, up to and including termination.

ANTI-RETALIATION

City management will support reasonable efforts made by supervisors and other staff dealing with violent, threatening, intimidating or other inappropriate behavior in the workplace. No employee shall subject another to retaliation for notifying the City about a real or potential threat, whether it involves another employee, a citizen or any other person with whom they come into contact during the course of their duties.

PROCEDURE

REPORTING MECHANISM

Employees are to report incidents of violence, threats (whether direct or indirect), intimidation and any other disruptive or inappropriate behaviors, whether directed against them or others, immediately to their supervisor. If the person showing such behaviors is the employee's supervisor, the employee must report to Human Resources directly.

THREATS OR ASSAULTS OR ANY INCIDENT THAT REQUIRES IMMEDIATE ATTENTION MUST BE REPORTED FIRST TO THE POLICE

Upon receiving such a report, supervisors are to immediately contact Human Resources. If a supervisor is unavailable, the employee must contact Human Resources directly. Outside of regular business hours when Human Resources is not available, the supervisor or employee must exercise reasonable judgment and decide whether to call the Police Department or, if the matter does not constitute an immediate threat, report it the next regular business day.

INVESTIGATION

The City may investigate any complaint, allegation or actual violation of this administrative regulation. The City will exercise reasonable care in the conduct of its investigation and will protect the privacy of the individuals involved to the extent reasonably possible and practicable. However, the City reserves the right to take whatever action it sees fit to protect its interests and the safety of its employees and the citizens of the City of Monte Vista. Such actions may include, but are not limited to, placing

suspected violators on administrative leave with or without pay, assisting and cooperating with the police, pursuit of injunctive or protective orders and criminal prosecution.

DISCIPLINARY ACTION

Upon completion of a good-faith investigation and forming a reasonable conclusion that this administrative regulation has been violated either in form or in spirit, the City may take whatever disciplinary or corrective action it sees fit, up to and including termination, against the offender.

EVACUATION POLICY AND ROUTES

See the following information:

Emergency Routes

City Hall

<i>Location</i>	<i>Primary</i>	<i>Secondary</i>	<i>Other</i>
Finance Department			
Cashier	Supply closet next to desk (lockable)	Rear hallway and through HR auxiliary office	
Account Clerk	Supply closet next to desk (lockable)	Rear hallway and through HR auxiliary office	
Account Supervisor	Rear supply closet (lockable)	Rear hallway and through HR auxiliary office	
Finance Director	Rear supply closet (lockable)	Rear hallway and through HR auxiliary office	
HR/Payroll Technician	Rear supply closet (lockable)	Rear hallway and through HR auxiliary office	
Administration			
City Manager	Bathroom (lockable)	Rear office door and down east hallway	Window
Administrative Secretary	Don's bathroom (lockable)	Rear office door and down east hallway	
Council Chambers			
Chambers	South door and down central hallway to carport	Finance supply closet (lockable)	
Clerks, Community Development, Public Works, Parks, Code Enforcement			
All offices (6—8 total)	Down east hallway and out south double doors	Bathroom (lockable)	Window

Head Count: 13—15 persons.

DIVISION 6

Workers' Compensation Policy

The City of Monte Vista is committed to a safe work environment for employees. Employees should report any unsafe practice or condition to their supervisor. Defective equipment must be reported immediately to the supervisor.

Employees are covered for employment-related injury or illness by the Colorado Workers' Compensation Act. Under the Act, an employee may receive certain benefits pertaining to an employment-related injury or illness.

The Colorado Revised Statutes, Section 8-43-102(l)(a), provides:

Every employee who sustains an injury resulting from an accident shall notify said employee's employer in writing of the injury [within four days of the occurrence of the injury.] If the employee is physically or mentally unable to provide said notice, the employee's foreman, manager, supervisor, or any other person in charge who has notice of said injury shall submit such written notice to the employer. Any other person who has notice of said injury may submit a written notice to the said person in charge or to the employer, and in that event the injured employee shall be relieved of the obligation to give such notice. Otherwise, [if said employee fails to report said injury in writing, said employee may lose up to one day's compensation for each day's failure to so report.] If, at the time of said injury, the employer has failed to display the notice specified in paragraph (b) of this subsection (1), the time period allotted to the employee shall be tolled for the duration of such failure.

If an employee is injured on the job, no matter how minor, he or she must immediately report this fact to his or her supervisor, who in turn will inform the Human Resource Representative. The following reports must be filed:

(1) Employee's Written Notice of Injury.

(2) A written designated provider list. The injured person must sign the designated provider list, so that a copy, with signature, may be kept in the employee file and a copy sent to CIRSA. This list will include the name and contact information of two (2) medical providers. The injured may choose which provider they wish to see. The provider list will also include the address and phone number of CIRSA, the City's Workers' Compensation carrier. If the injured employee requires immediate treatment, the employee may be taken directly to the emergency room of the SLV Regional Medical Center, with any follow-up appointments being with the choice of provider from the provider list. The Human Resource representative should be notified by phone immediately.

(3) After receiving the Employee's Written Notice of Injury, the Human Resource representative will file the First Report of Injury Claim with CIRSA.

(4) Accident/Incident Investigation Report to be filled out by employee's supervisor.

(5) If the employee is physically or mentally unable to fill out reports at the time of the injury, the forms must be filled out within four (4) days by the employee or by a person in charge with knowledge of the accident/incident.

At the point in time that Workers' Compensation benefits begin, the City of Monte Vista will no longer pay any compensation to the injured employee. However, injury leave may be coordinated with sick leave, vacation leave, comp time or holiday leave time so that the employee shall have the option to claim these benefits for the difference between benefits paid by Workers' Compensation and the employee's full salary to the extent of all of the accumulated employee's leave. The employee will be reinstated to the employee's position upon return from leave, only after the supervisor or Human Resource representative has received a release notice from the Workers' Compensation physician. If the operations of the City of Monte Vista permit, modified duty may also be available to facilitate a return to work by an employee.

If medical treatment for an on-the-job injury is needed, it must be obtained from one (1) of the two (2) City of Monte Vista's Workers' Compensation physicians. If not, the employee may be responsible for the cost of medical treatment.

DIVISION 7

Travel Policy and Procedure

Employees and any other person traveling on City of Monte Vista business will follow the procedures listed below.

PER DIEM

Employees or any other person traveling on City of Monte Vista business will be given a per diem before they leave to attend any meeting, training or conference. A purchase order with attachments containing the registration and information of the event must be turned in to the Accounts Payable Clerk before the deadline of the Council meeting prior to their event.

Per diem will be paid in accordance with the most current resolution. Per diem is not paid for any meals provided with registration or included with lodging. If the employee traveling chooses to incorporate personal business while on a City business trip, per diem meals will not be paid during the time spent on personal business. The Visa cards should not be used to pay for meals. The preferred method would be payment by per diem.

MILEAGE REIMBURSEMENT

Employees and any other person traveling on City of Monte Vista business will be expected to use a City-owned vehicle if at all possible. If there is no vehicle available, the employee will be paid mileage to and from the event at the current Internal Revenue Service rate. The current mileage chart is attached.

If the employee chooses to take his or her own vehicle, the actual gas used will be charged on the City's credit card and all receipts are to be attached to the Official Business Trip Report and turned into the Accounts Payable Clerk.

OFFICIAL BUSINESS TRIP REPORT

All employees or persons traveling on City of Monte Vista business will be expected to fill out the Official Business Trip Report. The Report should be filled out, approved by the Department Director and turned into the Accounts Payable Clerk ten (10) working days prior to the intended travel date. A copy of the registration will be attached to the Trip Report.

CITY OF MONTE VISTA BUSINESS TRAVEL STANDARD MILEAGE Calculated from Monte Vista

<i>City</i>	<i>Round Trip Mileage</i>
Albuquerque	475
Aspen	560
Boulder	550
Breckenridge	350
Colorado Springs	370
Crested Butte	270
Denver	500
Durango	265
Estes Park	650
Fort Collins	620
Glenwood Springs	460
Grand Junction	500
Gunnison	210
Leadville	280
Pagosa Springs	150
Santa Fe	340
Steamboat Springs	520
Trinidad	260
Vail	400

DIVISION 8 Vehicle Usage Policy

PURPOSE

The purpose of this Policy is to provide guidelines and rules for employees who use vehicles owned by the City of Monte Vista to carry out City business. A vehicle operator utilizing a City vehicle shall possess the appropriate, valid Colorado driver's license.

POLICY

Employees of the City of Monte Vista are held to a high standard of scrutiny and must remember that at all times when the employee is operating a City vehicle or using City equipment, he or she is personally responsible to conduct himself or herself in a manner which honors the level of trust placed in employees by the citizens of Monte Vista. It is the responsibility of every City of Monte Vista employee to act in a professional and responsible manner when using City property.

The policy of the City of Monte Vista is to provide vehicles for the employees to drive on City business according to the guidelines below:

(1) Employees may not drive vehicles for City business without the prior approval of their supervisor.

(2) City vehicles will be assigned to those departments that have demonstrated a continuing need for them. Additional vehicles are maintained in a motor pool for use as needed.

(3) Employees who need transportation in the course of their normal work may be assigned a City vehicle for their use. All other employees needing transportation for City business may use vehicles assigned to their department or those drawn from the motor pool. As a last alternative, when no City vehicle is available, employees may use their own vehicles for business purposes, but only with the prior approval of their Department Director.

(4) Employees who drive a vehicle on City business must, in addition to meeting the approval requirements above, exercise due diligence to drive safely and to maintain the security of the vehicle and its contents. Employees are expected to obey all driving and parking regulations. In keeping with this expectation, employees are responsible for moving violations incurred while they are driving a City vehicle. Employees are responsible for any driving infractions or fines as a result of their driving.

(5) Employees are not permitted, under any circumstances, to use a City vehicle to commute back and forth to work. This policy is in place to keep the City of Monte Vista in compliance with the Internal Revenue Service policy on automobile usage. The only employees exempt from this policy are police officers driving a well-marked police car and the Public Works employee who is "On-Call."

(6) Employees with an authorized take-home vehicle will be subject to appropriate IRS regulations concerning the tax implications of this benefit.

(7) Employees are not permitted, under any circumstances, to operate a City vehicle or a personal vehicle for City business, when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication or intoxication.

(8) Employees and any other person traveling on City of Monte Vista business will normally be expected to use a City vehicle unless there is no City vehicle available. In the event of no City vehicle being available, the employee, official or group will be paid mileage to and from the event

at the current Internal Revenue Service rate. If the City vehicle is available to accommodate the person or group, but the person or group chooses not to take the City vehicle, the City will pay for gas to the site of the City business and back to Monte Vista, through use of a gas or credit card. Note that the City of Monte Vista vehicle insurance does not cover the employee's private vehicle while engaged in City business. Insurance follows the vehicle, not the driver, so if the employee or other person traveling on City business is driving his or her own vehicle on City business, his or her own vehicle insurance would be the primary insurance.

(9) If a spouse, family member or friend is in the City-owned vehicle at the time of any accident, he or she would not be covered by CIRSA's insurance. The City of Mont Vista does not carry "Medical Pay Coverage" on nonemployees.

TRAVEL REIMBURSEMENT POLICY

Employees driving on City business may claim reimbursement for parking fees and tolls actually incurred. In addition, employees driving City vehicles may claim reimbursement for gasoline and other expenses directly incurred for business purposes. The employee's Department Director must approve all requests for reimbursement. All requests for reimbursement must have receipts attached and be signed by the Department Director before they are given to the Accounts Payable Clerk.

All nonexempt employees shall be paid travel time to and from Monte Vista to the employee's destination when required to attend meetings, training, seminars or other functions approved by the employee's Department Director or the City Manager. Once the employee has reached the conference or training area, travel time to and from a hotel to the conference or training site is not reimbursable if not done during the employee's normal working hours. Exempt employees are not eligible for travel time compensation beyond their normal salary.

ACCIDENT POLICY AND PROCEDURE

Employees involved in an accident in a City-owned vehicle should notify the local police department immediately. Employees must report any accident, theft or damage involving a City vehicle or a personal vehicle used on City business to their Department Director and the Human Resources Department, regardless of the extent of damage or lack of injuries. Such reports must be made as soon as possible, but no later than forty-eight (48) hours after the incident. Employees are expected to cooperate fully with authorities in the event of an accident. However, they should not make any statements other than in reply to questions of investigating officers.

DIVISION 9 Driver's License Policy

Possession of a valid driver's license, commercial or otherwise, is a condition of continued employment with the City of Monte Vista for positions requiring such license. Because of the City of Monte Vista's interests in promoting public and employee safety and reducing potential liability, only an unlimited, unexpired Colorado driver's license is acceptable under this Section.

UNLIMITED DRIVER'S LICENSES

Unlimited driver's licenses which are acceptable under this Section include the following:

(1) Regular Driver's License: A picture ID card, approximately 2" x 3" in size, issued by the State of Colorado and entitled *Colorado Driver's License* or *Colorado Commercial Driver's License*.

(2) Provisional Driver's License: A provisional driver's license is an unlimited driver's license issued to persons eighteen (18) through twenty-one (21) years of age.

(3) Temporary License: A temporary license is an unlimited, ninety-day license issued while the Department of Motor Vehicles completes its investigation into whether a permanent license should be issued. The temporary license expires upon issuance or denial of a permanent license.

(4) Temporary Permit: A temporary permit (also called a regular adult 60-day DUI temporary license) is a permit to drive that is granted for seven (7) days upon service of a Notice of Revocation. If written request for a hearing is made within seven (7) days of issuance of the temporary permit, another temporary permit is issued for sixty (60) days or until the first scheduled date for a hearing, whichever occurs first. An employee's first temporary permit based on a Notice of Revocation received during employment with the City of Monte Vista in a position requiring a driver's license will be accepted as an unlimited driver's license. Temporary permits based on a subsequent Notice of Revocation will be accepted as an unlimited driver's license only if the offense for which it is issued occurred more than five (5) years after the last Notice of Revocation.

(5) CDL Instruction Permit During Introductory Period: A valid Colorado commercial driver's license instructional permit may be acceptable as an unlimited driver's license as determined by job description requirements.

LIMITED DRIVER'S LICENSES

Limited driver's licenses which are unacceptable under this Section include the following:

(1) Probationary License: Probationary license is defined by the Colorado Revised Statutes. Probationary licenses are limited by various terms and conditions, such as driving only during prescribed hours and for prescribed purposes, an agreement to complete an alcohol education and treatment program or an agreement to drive only a vehicle in which an approved ignition interlock device is installed.

(2) Instructional Permits: Except as set forth above, instructional permits and driver's education permits are limited driver's licenses.

(3) Temporary Permits: Temporary permits (also called regular adult sixty-day temporary license) issued for subsequent offenses occurring within five (5) years of the last Notice of Revocation for which a temporary permit was issued.

If for any reason an employee fails to acquire or loses the required unlimited license as a result of action taken by a licensing or law enforcement authority, the employee will be suspended until the

employee acquires the required license. If the required license is revoked or suspended by action or any licensing or law enforcement authority for one hundred eighty-one (181) days or more, the employee will be terminated when such action is taken. Regardless of the duration of suspension or revocation of an unlimited license, an employee who drives on-the-job when the required unlimited license has been revoked or suspended will be terminated.

An employee, whose position description requires a driver's license, must immediately inform the employee's supervisor whenever a change in type or form of license occurs under the following conditions:

- (1) If the employee does not have the required unlimited license.
- (2) If the required unlimited license is suspended or revoked.
- (3) Whenever the employee is issued a temporary permit or probationary license.

In any of such instances, the employee will immediately produce to the employee's supervisor copies of all documents received from any licensing or law enforcement authority regarding such license, including a temporary permit or probationary license. An employee who fails to comply with this Section or who misrepresents the status of the employee's driver's license is subject to corrective action up to and including termination.

DIVISION 10 DRUG AND ALCOHOL POLICY

PURPOSE

The City of Monte Vista is committed to a safe, healthy and productive work environment for all employees, free from the effects of substance abuse. Abuse of alcohol, drugs and controlled substances impairs employee judgment, resulting in increased safety risks, injuries and faulty decision-making. It can also have an adverse impact on the public's perception of the City and its employees.

Also, the purpose of this Policy is to establish procedures to support a safety program and to comply with minimum federal safety standards for safety-sensitive functions regulated by the Department of Transportation (DOT). These standards were designed to reduce accidents that result from employee use of controlled substances and alcohol.

SCOPE – FOR CDL

This policy applies to all drivers who are required to hold a commercial driver's license (CDL) in order to perform their job for the City or who perform a safety-sensitive function. For purposes of this Policy, a driver is mandated by DOT regulations as those regulations relate to the driver's fitness for duty and use of alcohol prior to going on duty, while on duty or while operating or having physical control of a commercial motor vehicle. DOT testing for controlled substances under this Policy requires that drivers abstain from the use of controlled substances at any time or risk violating DOT regulations prohibiting the presence of controlled substances in their body.

Under this policy, performing a safety-sensitive function means all of the time after a driver begins to work or is required to be ready to work until the time the driver is relieved from work and all responsibility for performing work.

POLICY

City employees are required to present themselves for work free from the influence of illegal drugs or other intoxicants. Additionally, the City expects its employees to follow all applicable laws and regulations. For CDL drivers, this Policy also requires that:

- (1) No driver will unlawfully manufacture, use, possess or distribute controlled substances.
- (2) No driver will report for work, perform any safety-sensitive function or, while in the employ of the City of Monte Vista, have at any time any controlled substance present in his or her body. Presence of controlled substances will be determined by testing performed as described in this Policy.
- (3) No driver will report to work or perform safety-sensitive functions while having an alcohol concentration of .02 or greater. A driver's alcohol concentration will be determined by testing as described in this policy.
- (4) No driver will leave the scene of an accident, without valid reason, before the Police Department has been notified and the City has arranged to have either a controlled substance or alcohol test performed. If there are injuries from the accident, both controlled substance and alcohol tests will be arranged.
- (5) No driver will consume alcohol after an accident unless eight (8) hours have expired or the employee has been tested.

SUBSTANCE ABUSE

Alcohol Consumption

The abuse of alcohol by City employees constitutes a danger to the employee, fellow employees and the general public. Therefore, employees must not drink alcohol or have any detectable amount of alcohol while at work or while in their City work uniform, whether on- or off-duty. Police officers however, while on duty but not in uniform, may drink alcohol when serving as the subject of an educational seminar or class that addresses alcohol use and/or the performance of duty when acting under the proper, specific and lawful orders of a supervisor.

Employees in on-call status must not consume intoxicants during on-call hours. If an employee is called in to work from an off-duty or on-call status, it is the employee's responsibility to advise the supervisor of his or her fitness for work. It is a violation of this policy to return to work in an impaired condition or to fail to advise the supervisor of an employee's impaired condition.

Drug Consumption

The use of illegal drugs and the abuse of legal drugs by City employees constitute a danger to the employee, fellow employees and the general public. As a result, the City expects employees to adhere to the following guidelines regarding prescription and illegal drugs:

(1) Prescribed Drugs – Employees will, when drugs are prescribed by a physician or other authorized health care practitioner, ask their doctor whether the drug could affect their job performance. If so, the employee is required to provide a doctor's statement to that effect to his or her supervisor prior to going on-duty. The supervisor of an employee, upon being informed, may make any further inquiries necessary to determine if the employee is fit to perform his or her duties. If the employee is determined to be unfit for work, the employee will be placed on leave until such time as he or she is able to return to work. Such leave will be taken from the employee's available sick, vacation, comp or holiday leave, with sick leave to be utilized first.

(2) Illegal Drugs – Employees must not use or be in possession of illegal drugs, be under the apparent influence of illegal drugs or have illegal drugs in their system when at work or while in City uniform, whether on- or off-duty.

CIRCUMSTANCES REQUIRING TESTING

The City of Monte Vista will require a test for the presence of alcohol or illegal drugs under any of the following circumstances:

(1) Pre-employment Testing – Any candidate for City employment must successfully complete a pre-employment drug screen before he or she may begin employment at the City. Under no circumstances may a CDL driver perform a safety-sensitive function until a confirmed negative result is received. Applicants who refuse to submit to testing will not be hired.

(2) Post-Accident Testing – Following an accident, the employee will be tested for drugs and/or alcohol under any of the following circumstances:

- a. If the accident involved bodily injury or fatality;
- b. If the driver received a citation for a traffic violation arising from the accident; or
- c. If the accident is such that an insurance claim is anticipated

The test must be given as soon as practicable during the two (2) hours following an accident. An employee involved in any accident that may result in the performance of a drug and/or alcohol test must remain available for testing during the two (2) hours following the accident. No driver will leave the scene of an accident, without valid reason, before the City has arranged to have a controlled substance and/or alcohol test performed. Any failure to do so will be considered a refusal to submit to a test. This requirement will not, however, prohibit any employee from seeking or receiving emergency medical treatment. Unless unable to do so because of a serious injury, the employee must immediately contact a supervisor in the employee's chain of command to report the accident. The supervisor will contact the Department Director or the City Manager. Transportation will be arranged to take the employee to the designated testing site.

(3) Reasonable Suspicion Testing – Any employee will be required to undergo drug and/or alcohol testing upon reasonable suspicion that he or she is under the influence of drugs or alcohol. *Reasonable suspicion* means that the actions, appearance or conduct of the employee on duty are indicative of the use and/or presence in the employee's body of a controlled substance or alcohol, as determined by the Department Director. The City's determination to require an employee to undergo drug or alcohol testing must be based on specific, contemporaneous, articulated observations by a supervisor concerning the appearance, behavior, speech or body odors of the employee. In the event that an employee is suspected of being under the influence of drugs or alcohol, the employee will be driven to the City's designated testing facility for reasonable suspicion testing. The employee may not drive a commercial vehicle or otherwise perform any safety-sensitive function until he or she has been off work for at least twenty-four (24) hours or has undergone an alcohol test with a negative result.

Examples of reasonable suspicion include but are not limited to:

- a. A marked and noticeable change in the employee's job performance.
- b. The employee shows signs of the physical symptoms of drug or alcohol use, such as glassy or bloodshot eyes, odor of alcohol on the employee's breath, slurred speech and/or poor coordination and/or reflexes.
- c. The employee is observed taking drugs or consuming alcohol while on duty or at work.
- d. Any other physical, circumstantial or contemporaneous indicator of impairment.

The City of Monte Vista may conduct unannounced inspections for violations of this policy in the workplace, work sites, City vehicles or other City premises. Employees are expected to cooperate in any inspection.

(4) Random Testing – Employees with safety-sensitive job assignments will be subject to controlled substance testing and alcohol testing at any time on a random basis as a term and condition of holding a driver's position with the City of Monte Vista. Random testing will be done quarterly and will be unannounced to ensure that no driver receives advance knowledge of the time of testing. All drivers will have an equal chance of being selected each time a random selection is made.

Testing Guidelines

Any employee on the job, found to have any amount of alcohol in their body or testing positive for illegal drugs shall be terminated if:

- (1) Driving is a required function of the employee's position as determined by the employee's job description.
- (2) The employee was operating a City of Monte Vista vehicle or equipment, or the employee's personal vehicle on City of Monte Vista business, when the employee was impaired or using illegal drugs.

- (3) Other substantial safety concerns of the City of Monte Vista are at stake.

A CDL employee may not work within four (4) hours of consuming alcohol obtained from any source. If a CDL employee has consumed alcohol within four (4) hours of reporting to work, the employee must take available sick or vacation leave; or if sick and vacation leave are exhausted, leave without pay until no alcohol has been used within four (4) hours of the beginning of the employee's work shift.

Refusal to Submit to Testing

An employee who refuses to submit to drug or alcohol testing in compliance with this policy shall be deemed to have tested positive for illegal drugs and to be impaired by alcohol on the job. Refusal to submit to testing includes any of the following:

- (1) Refusal to take the test.
- (2) Inability to provide within four (4) hours sufficient breath or urine to be tested, without a valid medical explanation.
- (3) Tampering with or attempting to tamper with or adulterate the specimen of collection procedure.
- (4) Not reporting to the designated testing site at the scheduled time.
- (5) Refusal to provide the necessary authorization for obtaining hospital reports and other documents as required.

Testing Procedures

The supervisor making the determination of reasonable suspicion or ordering the post-accident test shall prepare a testing referral form, setting forth the basis for the finding of reasonable suspicion or post-accident testing, as appropriate. The form shall be accompanied by other pertinent information, including names of witnesses of the circumstances or behavior that led to the referral. The supervisor shall make immediate arrangements to have the employee tested, and the drug and alcohol tests shall be performed as soon as possible. For random tests, the paper work will be handed out by the Human Resource Department.

Test results shall be held in confidence by the laboratories with which the City of Monte Vista contracts and by the City of Monte Vista, and shall only be disclosed to the employee tested, any personnel involved in supervisory or disciplinary capacities with regard to the employee, or City of Monte Vista personnel participating in administrative or legal proceedings with concern in any manner of the test results.

AT-WILL EMPLOYMENT

Nothing in this policy is to be construed as prohibiting the City of Monte Vista from maintaining a safe work environment or imposing disciplinary action as it deems appropriate for reasons of misconduct or poor performance, regardless of whether the misconduct or poor performance arises from drug or alcohol use. Such disciplinary actions may include termination of employment. Employment is at-will

and subject to termination by the City of Monte Vista or the employee at any time, with or without notice and with or without cause.

RECEIPT AND ACKNOWLEDGMENT

I have received a copy of the City of Monte Vista's Policy and Procedure Manual and understand that, in order to continue my employment with the City, I must abide by the terms of these policies.

I UNDERSTAND THAT THESE POLICIES DO NOT MODIFY MY STATUS AS AN AT-WILL EMPLOYEE OR CREATE ANY CONTRACTUAL RELATIONSHIP, EXPRESSED OR IMPLIED, AND IN NO WAY IMPLIES, INFERS OR GUARANTEES MY CONTINUED EMPLOYMENT FOR ANY DEFINITE TERM. I FURTHER UNDERSTAND THAT I MAY BE DISMISSED AT THE DISCRETION OF THE CITY FOR REASONS OTHER THAN FAILING TO FOLLOW THE TERMS OF THESE POLICIES.

I have initialized the following policies that I have read:

Performance Management Policy & Procedure	_____
Safety Policy & Procedure	_____
Seat Belt Policy	_____
Discipline Policy & Procedure	_____
Workplace Security Anti-Violence Policy	_____
Workers' Compensation Policy	_____
Travel Policy & Procedure	_____
Vehicle Usage Policy	_____
Drivers License Policy	_____
Drug & Alcohol Policy	_____

Employee Signature

Date

CHAPTER 3

Revenue and Finance

Article 1 General and Special Funds

- Sec. 3-1-10 Custody and management of funds
- Sec. 3-1-20 General Fund
- Sec. 3-1-30 Capital Improvements Fund
- Sec. 3-1-40 Conservation Trust Fund created

Article 2 Sales Tax

Division 1 Generally

- Sec. 3-2-10 Definitions
- Sec. 3-2-20 Title
- Sec. 3-2-30 Purpose
- Sec. 3-2-40 Penalty for violations

Division 2 Imposition and Collection

- Sec. 3-2-110 Imposition of sales tax
- Sec. 3-2-120 Incorporation of state statutes by reference
- Sec. 3-2-130 Consummation of retail sales
- Sec. 3-2-140 Gross receipts to include delivery charges
- Sec. 3-2-150 Schedule for imposition
- Sec. 3-2-160 Vendor's fee; delinquency
- Sec. 3-2-170 Collection, administration and enforcement

Article 3 Utility Occupation Tax

- Sec. 3-3-10 Definitions
- Sec. 3-3-20 Policy and purpose
- Sec. 3-3-30 Local purpose
- Sec. 3-3-40 Filing statement and payment of tax
- Sec. 3-3-50 Failure to pay
- Sec. 3-3-60 Interest on deficiency
- Sec. 3-3-70 Penalties
- Sec. 3-3-80 Inspection of records
- Sec. 3-3-90 Administrative hearings

Article 4 Bidding, Purchasing and Sale of City Property

- Sec. 3-4-10 Requirement to purchase
- Sec. 3-4-20 Sale of City property

Appendix

- Appx. 3-A Bidding and Purchasing Policy

ARTICLE 1

General and Special Funds

Sec. 3-1-10. Custody and management of funds.

Moneys in the funds created in this Chapter shall be in the custody of and managed by the City Treasurer/Finance Director, who shall maintain accounting records and account for all of said moneys as provided by law. Moneys in the funds of the City shall be invested or deposited by the City Treasurer/Finance Director in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the City Treasurer/ Finance Director may transfer out of any fund (other than enterprise or legally restricted funds and transfers therein, which may be legally permissible), any amount at any time to be used for such legal purpose as the City Treasurer/ Finance Director may determine and as approved by the City Council. (Ord. 811 §1, 2009)

Sec. 3-1-20. General Fund.

There is hereby created a fund to be known as the *General Fund*, which shall consist of all such balances of the City not specifically belonging to any existing special fund of the City. (Ord. 811 §1, 2009)

Sec. 3-1-30. Capital Improvements Fund.

There is hereby created a fund to be known as the *Capital Improvements Fund*, which shall be used only for the purposes allowed by law. (Ord. 811 §1, 2009)

Sec. 3-1-40. Conservation Trust Fund created.

There is hereby created a special fund, to be known as the *Conservation Trust Fund*, which shall be used only for the purposes allowed by law. (Prior code 6-51; Ord. 811 §1, 2009)

ARTICLE 2

Sales Tax

Division 1 Generally

Sec. 3-2-10. Definitions.

For the purpose of this Article, the definitions of words contained in this Article shall be as defined in Section 39-26-102, C.R.S., and said definitions are incorporated in this Article by this reference. (Prior code 6-91)

Sec. 3-2-20. Title.

This Article shall be commonly and legally known as the *City of Monte Vista Sales Tax Ordinance*. (Prior code 6-92)

Sec. 3-2-30. Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property at retail or the furnishing of certain taxable services as provided in Section 29-2-105, C.R.S. (Prior code 6-93)

Sec. 3-2-40. Penalty for violations.

Any person violating any provisions or failing to comply with the mandatory requirements of this Article, upon conviction, shall be deemed guilty and shall be punished pursuant to Section 1-4-20 of this Code or, in the alternative, such violator shall be prosecuted by the State under the provisions of Section 39-26-101, et seq., C.R.S. (Prior code 6-94)

*Division 2
Imposition and Collection*

Sec. 3-2-110. Imposition of sales tax.

There is hereby imposed on all sales of tangible personal property at retail and the furnishing of certain taxable services, in accordance with the provisions of Section 39-26-101, et seq., C.R.S., a tax equal to two percent (2%) of the gross receipts of said sales or services. (Prior code 6-111; Ord. 811 §1, 2009)

Sec. 3-2-120. Incorporation of state statutes by reference.

All provisions of Section 39-26-101, et seq., C.R.S., concerning liability for tax, rules and regulations, tax on motor vehicles, exemptions, interest on deficiencies, investigation, records of sales, tax liens, recovery of taxes, penalty and interest, decisions of the director, notices and other provisions pertinent to the collection, enforcement and incidence of such tax by the City, are incorporated into this Article by reference and made applicable to the provisions of this Article, unless specifically otherwise provided in this Article. (Prior code 6-112)

Sec. 3-2-130. Consummation of retail sales.

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

(b) If the retailer has no permanent place of business in the City or more than one (1) place of business, the place at which the retail sales are consummated, for the purpose of this sales tax, shall be determined by the provisions of Section 39-26-101, et seq., C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue. (Prior code 6-113)

Sec. 3-2-140. Gross receipts to include delivery charges.

The gross receipts from sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Section 39-26-101, et seq., C.R.S., regardless of the place to which delivery is made. (Prior code 6-114)

Sec. 3-2-150. Schedule for imposition.

The imposition of the tax on individual sales shall be in accordance with the schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue or separate ordinances of the City. (Prior code 6-115)

Sec. 3-2-160. Vendor's fee; delinquency.

(a) The vendor is entitled, as collecting agent of the City, to withhold a collection fee in the amount of three and one-third percent ($3\frac{1}{3}\%$) on the total amount due by the vendor to the City each month.

(b) If the vendor is delinquent in the payment of the amount due by the vendor to the City, the vendor shall not be entitled to the collection fee for each such month that the vendor is or remains delinquent. (Prior code 6-116)

Sec. 3-2-170. Collection, administration and enforcement.

The collection, administration and enforcement of this sales tax shall be performed by the Executive Director of the Colorado Department of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Section 39-26-101, et seq., C.R.S., shall govern the collection, administration and enforcement of sales taxes authorized under this Article. (Prior code 6-117)

ARTICLE 3

Utility Occupation Tax

Sec. 3-3-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

City means the municipal corporation designated as the City of Monte Vista located in Rio Grande County, and includes the territory which currently is or may in the future be included within the boundaries of the City.

Taxable amount means the monthly amount of the occupation tax levied upon a utility company by this Article.

Utility means any person, partnership, company, corporation or other association or entity, including but not limited to telecommunications, gas, electric and other like utilities (other than those

holding a valid and current franchise agreement with the City) to provide such service and other than the City. (Prior code 6-196; Ord. 811 §1, 2009)

Sec. 3-3-20. Policy and purpose.

The City Council hereby finds, determines and declares that, considering the nature of utility businesses and occupations and the relations thereof to the municipal welfare, as well as the relation thereof to the expenditures required of the City and all other matters proper to be considered thereto, the classification of businesses and occupations as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory. Except as heretofore designated by definition of *utility*, a utility occupation tax is hereby imposed upon any utility conducting business within the City. The amount of tax imposed by this Article shall be established from time to time by resolution of the City Council, except in those cases which necessitate compliance with Article X, Section 20 of the Colorado State Constitution, and except where prior ordinances (such as Ordinance No. 530) of the City have established a specific occupation tax upon a utility provider. (Prior code 6-197; Ord. 811 §1, 2009)

Sec. 3-3-30. Local purpose.

The tax provided for in this Article is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Article shall be construed to mean that any electric and gas utility company is issued a franchise by the City. (Prior code 6-198)

Sec. 3-3-40. Filing statement and payment of tax.

It shall be the duty of each utility company, and the president, secretary, treasurer, manager, officer or agent having general control of the business of each such utility company in the City, to transmit within ten (10) days after the end of each calendar month payment to the City Treasurer/Finance Director of the above amount. The statement of payment shall become delinquent ten (10) days after the end of such month. (Prior code 6-200)

Sec. 3-3-50. Failure to pay.

If any utility company subject to the provisions of this Article fails to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company, plus reasonable costs of collection, including reasonable attorneys fees, and shall be and hereby is declared to be a debt due and owing from such company to the City. The City Attorney, upon direction of the City Council, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect such debt. (Prior code 6-201; Ord. 811 §1, 2009)

Sec. 3-3-60. Interest on deficiency.

Interest on any deficiency in payment of the tax shall be at the rate imposed under Section 39-21-110.5, C.R.S., plus one-half percent (0.5%) per month from the date when due. (Prior code 6-202)

Sec. 3-3-70. Penalties.

If any officer, agent or manager of a utility company which is subject to the provisions of this Article fails, neglects or refuses to make or file any monthly statement or payment in the manner herein prescribed, the officer, agent, manager or person shall, on conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Each day after such monthly statement or payment becomes delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement or payment shall be considered a separate and distinct offense. (Prior code 6-203; Ord. 811 §1, 2009)

Sec. 3-3-80. Inspection of records.

The City and its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the electric and gas utility companies which are subject to the provisions of this Article and to make copies of the entries or contents thereof. (Prior code 6-204)

Sec. 3-3-90. Administrative hearings.

Any utility company subject to the provisions of this Article may request a hearing on the levy of the occupation tax after receiving a notice of final determination, assessment, demand for payment or denial of claim for refund. Such hearing shall be conducted in the manner hereinafter prescribed:

(1) If a utility company disputes the reasonableness or applicability of the tax, it may seek review of the assessment by filing a protest with the City Treasurer/Finance Director within thirty (30) days of the mailing of the accounting statement. If such protest is filed, the utility company shall appear before the City Treasurer/Finance Director at a date specified. The utility company shall be notified of this hearing date by certified mail, return receipt requested. At this hearing, the utility company may present evidence regarding the reasonableness or applicability of the tax. The utility company shall bear the burden of proof.

(2) Such hearing shall be solely for the purpose of hearing protests as to the reasonableness and applicability of the tax.

(3) At such hearing, the City Treasurer/ Finance Director shall have all powers necessary to ensure the fair and efficient conduct of the hearing, but shall not be bound by the Colorado Rules of Evidence. The hearing shall be open to the public.

(4) Within sixty (60) days of such hearing, the City Treasurer/Finance Director shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the protestant and the City Manager. (Prior code 6-205)

ARTICLE 4

Bidding, Purchasing and Sale of City Property

Sec. 3-4-10. Requirement to purchase.

(a) All supplies and contractual services exceeding twenty-five thousand dollars (\$25,000.00) shall be purchased by formal written contract from the lowest responsible bidder after due notice inviting proposals, in accordance with the Bidding and Purchasing Policy of the City.

(b) The City Manager shall be responsible for the procurement of goods and services for all departments, offices and agencies; provided that the City Manager may delegate such duties as provided by the Bidding and Purchasing Policy of the City. The procedures utilized by the purchasing departments shall adhere to standards normally used in municipal and governmental entities. The Bidding and Purchasing Policy of the City shall be established and amended from time to time by resolution of the City Council. A copy of such resolution is attached as Appendix 3-A to this Chapter and is incorporated herein by reference. (Prior code 2-261; Ord. 811 §1, 2009)

Sec. 3-4-20. Sale of City property.

(a) Real estate. Any sale of real estate shall occur only after public hearing, in accordance with the requirement of the City Charter. An appraisal by a qualified real estate appraiser shall be obtained prior to the sale and transfer of any City real estate, and no sale of City real estate shall be completed at less than its appraised value unless the City Council determines, by resolution, that such real estate cannot be sold for its appraised value. The City reserves the right to reject any bid or proposal to purchase real estate owned by the City.

(b) Personal property. Sale of personal property shall be governed by the provisions of the City's Bidding and Purchasing Policy attached as Appendix 3-A to this Chapter. (Prior code 2-267; Ord. 811 §1, 2009)

APPENDIX 3-A
BIDDING AND PURCHASING POLICY
TABLE OF CONTENTS

Division 1 Generally

- Section 1 Purpose
- Section 2 Application
- Section 3 Definitions
- Section 4 Authority to purchase

Division 2 Bidding and Purchasing

- Section 5 Methods of source selection
- Section 6 Competitive sealed bidding
- Section 7 Cancellation and rejection of bids
- Section 8 Standards of responsibility of bidders and offerors
- Section 9 Determination of nonresponsibility
- Section 10 Use of competitive sealed proposals in lieu of bids
- Section 11 Contracting for professional services
- Section 12 Exemptions to use of competitive bid or proposal

Division 3 Construction Contracts

- Section 13 Bid security, performance and payment bonds

Division 4 Sale of City Property

- Section 14 Bidding procedure required for personal property

Division 5 Ethics in Public Contracting

- Section 15 Criminal penalties
- Section 16 Gratuities and kickbacks
- Section 17 Prohibition against contingent fees
- Section 18 Contemporaneous employment prohibited
- Section 19 Waiver from conflicts of interest
- Section 20 Use of confidential information
- Section 21 Sanctions
- Section 22 Recovery of value transferred or received in breach of ethical standards

APPENDIX 3-A

Bidding and Purchasing Policy

DIVISION 1 Generally

Section 1. Purpose.

The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in purchasing by the City, to maximize the purchasing value of public funds in procurement, to provide safeguards for maintaining a procurement system of quality and integrity and to foster effective, broad-based competition within the free enterprise system.

Section 2. Application.

This Policy shall apply to the procurement of materials, supplies, services and construction entered into by the City. When the procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law. This Policy does not create or confer any right or entitlement upon any person to bid on or receive an award of any City contract.

Section 3. Definitions.

The following definitions apply to this Policy:

Competitive sealed bidding, also called *formal bid*, shall mean the preferred process of acquiring materials, supplies, equipment and services, and for construction of public buildings, facilities or works in which an award is made to the lowest responsive and responsible bidder, based solely on the response to the criteria set forth in the Invitation to Bid; *competitive sealed bidding* does not include discussions or negotiations with bidders.

Confidential information shall mean information which is available to any employee only because of the employee's status as an employee of the City and which is not a matter of public knowledge or available to the public on request.

Construction shall mean the process of building, improving, altering or demolishing improvements. *Construction* shall not include the operation, repair or maintenance of improvements.

Contract shall mean any City agreement for the procurement or disposal of supplies, services or construction.

Invitations to bid shall mean all documents, whether attached or incorporated by reference, used for soliciting bids.

Materials shall mean all personal property, including but not limited to supplies, equipment, parts, printing and insurance; excluding, however, leases of a permanent interest in real property, securities and financial paper and water and water rights, whether represented by shares of stock in ditch and irrigation companies or otherwise.

Person shall mean any business, individual, union, committee, club, other organization or group of individuals.

Procurement shall mean the purchasing, renting, leasing or other acquisition of any materials, supplies, services or construction. It shall also include all functions that pertain to obtaining any material, service or construction, including the description requirement, the selection and solicitation of sources and the preparation and award of a contract.

Professional services shall mean the furnishing of labor, time, effort or expertise by a contractor with specialized knowledge in a field, including but not limited to architecture, engineering, medicine, finance, accounting (including auditing), appraisal and land surveying.

Public notice shall mean any publication reasonably calculated to inform responsible bidders or offerors. Public notice shall occur for a reasonable time and may be disseminated through any means of mass communication, including but not limited to newspapers, other written publications, posting, television, radio, other broadcasting media and electronic billboards.

Purchasing officer shall mean any person duly authorized by the governing body of the City to enter and administer contracts and make written determinations with respect thereto.

Responsive and responsible bidder shall mean a person whose bid or offer conforms in all material respects to the requirements set forth in the invitation to bid or request for proposals.

Request for proposals shall mean all documents, whether attached or incorporated by reference, used for soliciting proposals.

Section 4. Authority to purchase.

Department Heads (subject to oversight by the City Manager and City Treasurer/Finance Director) are hereby designated as the Purchasing Officer responsible to make procurements, solicit bids and proposals, administer contracts and make written determinations and recommendations for each of their departments.

DIVISION 2 Bidding and Purchasing

Section 5. Methods of source selection.

All procurements subject to the terms of this Policy shall be awarded by competitive sealed bidding pursuant to Section 6 of this Policy, except as provided in:

- (1) Section 10 concerning awards by competitive sealed proposal;

(2) Section 11 concerning awards authorized by negotiation, contracting for professional services; and

(3) Section 12 concerning exemptions to use of competitive bid or proposal.

Section 6. Competitive sealed bidding.

(a) Competitive sealed bidding is intended to enable the City to acquire goods and services it requires to conduct public business at the best possible cost. It also gives qualified and responsible vendors desiring to do business with the City a fair and equitable opportunity to do so.

(b) An invitation to bid shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a general description of the articles to be purchased, all contractual terms and conditions applicable to the procurement, the deadline for submission of bids and the time and place for opening bids.

(c) Public notice inviting bids shall be published at least once in a newspaper of general circulation in the City at least ten (10) days preceding the last day set for receipt of bids. The public notice shall state the place, date and time of bid opening.

(d) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation to bid. Vendors and the public are invited and encouraged to attend bid openings. The City Clerk or designee shall open bids publicly and shall read the names of the bidders and the amount of each bid, and any other information deemed appropriate by the City Clerk or designee. All bids become part of public record, and therefore are available to the public. No statement shall be made as to any "winning bid" at the bid opening or any time until the bid is awarded.

(e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirement set forth in the invitation to bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose.

(f) Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted at the City's sole discretion, only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and that the bid price actually intended is evident from the bid document previously submitted. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competitor shall be permitted.

(g) The contract shall be awarded with reasonable promptness, by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation to bid. In the event the lowest responsive and responsible bid exceeds available funds, when time or economic considerations preclude resolicitation of work of a reduced scope, it is permissible to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. The City Manager shall submit all procurement under this Policy which exceeds a cost of twenty-five thousand dollars (\$25,000.00) to City Council in an open meeting for

final approval. The City reserves the right to reject any and all bids when the lowest qualified bid exceeds the budget limit.

Section 7. Cancellation and rejections of bids.

An invitation to bid, a request for proposal or other solicitation may be cancelled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interest of the City in accordance with these rules and regulations. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future purchase of similar items.

Section 8. Standards of responsibility of bidders and offerors.

(a) In order to do business with the City, a vendor must be able to demonstrate that it has:

(1) The appropriate financial, material, equipment, facility and personnel resources, experience and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements.

(2) A satisfactory record of performance and integrity.

(3) The legal capacity to contract with City and supply all necessary information in connection with any inquiry concerning responsibility.

(b) The City reserves the right to inspect the plant, place of business or worksite of a vendor.

(c) The unreasonable failure of a vendor to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility.

Section 9. Determination of nonresponsibility.

If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the City Manager and a copy thereof shall be forwarded to the vendor. Once the determination of nonresponsibility has been made, the City shall conduct no further business with such vendor unless and until the vendor has submitted supplemental information which indicates compliance with the Standards of Responsibility set forth in Section 8 of this Policy.

Section 10. Use of competitive sealed proposals in lieu of bids.

(a) When the Purchasing Officer determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered by use of the competitive sealed proposal method. Competitive sealed proposals are most appropriately used for professional service-type contracts.

(b) Proposals shall be solicited through a request for proposals. Public notice of the request for proposals shall be given at least ten (10) days prior to the advertised date of the opening of the proposals. Public notice shall include the proposal title, place, date and time of proposal opening.

(c) Proposals shall be opened as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after the contract is awarded.

(d) The request for proposal shall state the relative importance of price and other evaluating factors.

(e) Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the contract is awarded for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) Award shall be made to the offeror whose proposal is determined, in writing, to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The City Manager shall submit all awards under this Section which exceed a cost of twenty-five thousand dollars (\$25,000.00) to City Council in an open meeting for final approval. The City reserves the right to reject any and all proposals when the lowest qualified proposal exceeds the budget limit. The contract file shall contain the basis on which the award is made.

Section 11. Contracting for professional services.

(a) By way of example but not by limitation, professional services, such as accountants, architects, auditors, consultants, engineers, land surveyors, etc., may be negotiated.

(b) Such services shall be approved by a Department Head if the cost is five thousand dollars (\$5,000.00) or less, by the City Manager if the cost is greater than five thousand dollars (\$5,000.00) but less than or equal to twenty-five thousand dollars (\$25,000.00), and by the City Council if the cost is greater than twenty-five thousand dollars (\$25,000.00).

(c) When the Purchasing Officer determines that the use of formal bidding is advantageous to the City, procurement for professional services may be entered by use of competitive sealed proposal method.

(d) All multi-year contracts are subject to annual budget appropriations by City Council. All multi-year contracts are cancellable by the City without penalty.

Section 12. Exemptions to use of competitive bid or proposal.

(a) Minor purchases. Any procurement not exceeding twenty-five thousand dollars (\$25,000.00) may be made in accordance with the procedures set forth below. Procurements shall not be artificially divided so as to constitute a small purchase under this Section.

(1) Procurements up to five thousand dollars (\$5,000.00) shall be approved by any Department Head; provided that, whenever practical or advantageous, a reasonable number of vendors shall be solicited for quotations. Quotations may be oral or written, and the award shall be made to the vendor providing the lowest responsive and responsible quotation.

(2) Procurements greater than five thousand dollars (\$5,000.00) and up to ten thousand dollars (\$10,000.00) must be approved by the Department Head and City Manager. A reasonable number of vendors (ordinarily a least three [3]) shall be solicited for quotations. Quotations may be oral or written, and the award shall be made to the vendor providing the lowest responsive and responsible quotation. The name of the vendors and the dated and amount of each quotation shall be recorded, and such record shall be maintained for one (1) year from the date of the purchase.

(3) Procurements greater than ten thousand dollars (\$10,000.00) and up to twenty-five thousand dollars (\$25,000.00) must be approved by the Department Head and City Manager. At least (3) written quotations must be solicited from vendors, and the award shall be made to the vendor providing the lowest responsive and responsible quotation. A record of the written quotations shall be maintained for one (1) year from the date of purchase.

(b) Emergency purchases. In case of an apparent emergency which requires immediate purchase of materials, professional services or construction, the City Manager is empowered to authorize the using Department Head to procure such emergency needs by informal, open-market procedure as expeditiously as possible, at the lowest obtainable price. A written determination of the basis for the emergency and for the selection of the particular contractor shall be made by the City Manager. The written determination shall be presented to City Council at the next open meeting.

DIVISION 3

Construction Contracts

Section 13. Bid security, performance and payment bonds.

(a) When a contract for public work or construction projects is awarded pursuant to the competitive bidding requirements of this Policy, the following bonds or security shall be delivered to the City. When deemed necessary and in the best interests of the City, the City Manager may grant a waiver, in whole or in part, from the bid security, performance and payment bond provisions set forth below:

(1) When deemed necessary by the Purchasing Officer, bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to a return of the surety required by the Purchasing Officer within ten (10) days after the award of the contract.

(2) A performance bond satisfactory to the City, executed by a surety company authorized to do business in the State of Colorado or otherwise secured in a manner satisfactory to the City, in an amount equal to one hundred percent (100%) of the price specified in the contract.

(3) A payment bond satisfactory to the City, executed by a surety company authorized to do business in the State of Colorado or otherwise secured in a manner satisfactory to the City, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.

(b) The City may require bonds or security on projects other than construction and public works projects.

(c) In any construction or public works contract in excess of twenty-five thousand dollars (\$25,000.00), the City shall deduct retainage from the partial payment in amounts specified to protect the interest of the City, and will retain this money until after completion of the entire contract. The amount to be retained from payments shall be ten percent (10%) of the value of the completed work, exclusive of payment for materials on hand, but not greater than five percent (5%) of the amount of the contract.

(d) Nothing in this Section shall be construed to limit the authority of the City to require additional bonds or security.

DIVISION 4

Sale of City Property

Section 14. Bidding procedure required for personal property.

(a) All sales of obsolete or unusable personal property with an estimated value in excess of two thousand five hundred dollars (\$2,500.00) shall be sold through the formal bid process to the highest responsible bidder, after due notice inviting bids. Such property with a value less than two thousand five hundred dollars (\$2,500.00) may be disposed of pursuant to policies and procedures established by the City Manager and/or Finance Director. The City may engage auction firms to sell all obsolete or unusable property, after soliciting the auction firms through the formal bid process or through cooperative purchasing.

(b) The City may reject all bids when it is in the best interests of the City to do so.

(c) Any sale of real estate shall occur only after a public hearing, and in accordance with the requirements of Section 3-4-20 of the Monte Vista Municipal Code.

DIVISION 5

Ethics in Public Contracting

Section 15. Criminal penalties.

To the extent that violations of the ethical standards of conduct set forth in this Division constitute violations of the State of Colorado Criminal Code, they shall be punishable as provided therein. Nothing contained in this Section shall prohibit prosecution of ordinance violations under the Monte Vista Municipal Code. Such penalties shall be in addition to any civil sanctions set forth in this Policy. Criminal, civil and administrative sanctions against employees or nonemployees, which are in existence on the effective date of this Policy, shall not be impaired.

Section 16. Gratuities and kickbacks.

(a) City employees and members of their families shall not accept or solicit gifts or gratuities offered because of the employees duties, functions or responsibilities as an employee of the City. This does not pertain to gifts of a general commercial advertising nature having a small value (less than twenty-five dollars [\$25.00]) or food or drink consumed by the employee at the time of receipt at an appropriate social or City business.

(b) It is unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

Section 17. Prohibition against contingent fees.

It is unethical for a person to be retained, or to retain a person, to solicit or secure a City contract or other procurement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business, provided that full disclosure of all cost and pricing data, as well as such commission percentage, brokerage or contingent fee, is made when requested.

Section 18. Contemporaneous employment prohibited.

It is unethical for any City employee or public official who is participating directly or indirectly in the procurement process to become or to be, while such a City employee or public official, the employee of any person contracting with the governmental body by whom the employee is employed.

Section 19. Waiver from conflicts of interest.

The City Manager may grant a waiver from the conflict of interest provision or the contemporaneous employment provision upon making a written determination that:

- (1) The contemporaneous employment of the City employee has been publicly disclosed;
- (2) The City employee will be able to perform procurement functions without actual or apparent bias or favoritism; and
- (3) The award will be in the best interest of the City.

Section 20. Use of confidential information.

It is unethical for any City employee or public official to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

Section 21. Sanctions.

(a) Employees. The City Manager may impose any one (1) or more of the following sanctions on a City employee for violations of the ethical standards in this Policy:

- (1) Oral or written warnings or reprimands;
- (2) Suspension with or without pay for a specified period of time; or
- (3) Termination of employment.

(b) Nonemployees. The City Manager may impose any one (1) or more of the following sanctions on a nonemployee for violations of the ethical standards:

- (1) Written warnings or reprimands;
- (2) Termination of contracts; or
- (3) Suspension or revocation of ability to do business with the City.

Section 22. Recovery of value transferred or received in breach of ethical standards.

(a) The value of anything transferred or received in breach of the ethical standards of this Policy by a City employee, public official or nonemployee may be recovered from the City employee, public official or nonemployee.

(b) Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City, and will be recoverable hereunder for the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

CHAPTER 4

Business Licenses and Regulations

Article 1 Business Licenses

- Sec. 4-1-10 Purpose
- Sec. 4-1-20 License required; renewal
- Sec. 4-1-30 Separate license for each location
- Sec. 4-1-40 License contents, posting
- Sec. 4-1-50 Transfer of license
- Sec. 4-1-60 Suspension; revocation
- Sec. 4-1-70 Exemptions
- Sec. 4-1-80 Violation

Article 2 Alcoholic Beverages

- Sec. 4-2-10 Adoption of state statutes
- Sec. 4-2-20 Definitions
- Sec. 4-2-30 Declaration of policy and purpose
- Sec. 4-2-40 License fees
- Sec. 4-2-50 Classification
- Sec. 4-2-60 Levy of license fee
- Sec. 4-2-70 Payment of license fees
- Sec. 4-2-80 Delinquency not grounds for revocation or suspension
- Sec. 4-2-90 Suspension; payment of fine
- Sec. 4-2-100 Recovery of fees by suit
- Sec. 4-2-110 Noncompliance deemed offense, conviction not to constitute revocation
- Sec. 4-2-120 Optional premises
- Sec. 4-2-130 Alcohol beverage tastings authorized
- Sec. 4-2-140 Educational requirements
- Sec. 4-2-150 Penalty for violation

Article 3 Amusements

- Sec. 4-3-10 Circus, contest, exhibit, carnival, certain amusement devices
- Sec. 4-3-20 Arcades or video games

Article 4 Contractors

- Sec. 4-4-10 Definitions
- Sec. 4-4-20 License required
- Sec. 4-4-30 Application procedure
- Sec. 4-4-40 Issuance of license
- Sec. 4-4-50 Contents of license
- Sec. 4-4-60 Expiration date
- Sec. 4-4-70 Revocation, suspension, rejection; hearing

Article 5 Franchises

- Sec. 4-5-10 Account of negotiating expense required
- Sec. 4-5-20 Notice of costs to franchisee
- Sec. 4-5-30 Payment by franchisee
- Sec. 4-5-40 Protest, hearing
- Sec. 4-5-50 Scope of hearing
- Sec. 4-5-60 Conduct of hearing
- Sec. 4-5-70 Approval by hearing officer; review by City Council
- Sec. 4-5-80 Liability for challenge of Article

Article 6 Peddlers, Solicitors and Transient Merchants

Division 1 Generally

- Sec. 4-6-10 Definitions
- Sec. 4-6-20 License required
- Sec. 4-6-30 Exemptions
- Sec. 4-6-40 Peddling to private residences prohibited
- Sec. 4-6-50 Use of streets
- Sec. 4-6-60 Records
- Sec. 4-6-70 Penalty for violation

Division 2 License

- Sec. 4-6-110 Application
- Sec. 4-6-120 Religious and charitable organization exemptions
- Sec. 4-6-130 Investigation
- Sec. 4-6-140 Disapproval of license application
- Sec. 4-6-150 Approval of license application
- Sec. 4-6-160 License fee
- Sec. 4-6-170 Bond
- Sec. 4-6-180 Exhibition
- Sec. 4-6-190 Cause for revocation
- Sec. 4-6-200 Hearing on revocation
- Sec. 4-6-210 Appeal
- Sec. 4-6-220 Reapplication

Article 7 Security Services

- Sec. 4-7-10 Purpose
- Sec. 4-7-20 Definitions
- Sec. 4-7-30 License required
- Sec. 4-7-40 License qualifications
- Sec. 4-7-50 License application
- Sec. 4-7-60 Investigation of applicant
- Sec. 4-7-70 Application and license fees
- Sec. 4-7-80 Insurance requirements
- Sec. 4-7-90 Issuance
- Sec. 4-7-100 Identification cards, badges, uniforms and equipment
- Sec. 4-7-110 Training requirements
- Sec. 4-7-120 Firearms
- Sec. 4-7-130 Change in personnel
- Sec. 4-7-140 Unlawful acts
- Sec. 4-7-150 Revocation or suspension of license
- Sec. 4-7-160 Rules and regulations
- Sec. 4-7-170 Appeal procedures
- Sec. 4-7-180 Duty of citizens
- Sec. 4-7-190 Bond

Article 8 Tattoo Establishments

Division 1 Generally

- Sec. 4-8-10 Definitions
- Sec. 4-8-20 Penalty for violations

Division 2 License

- Sec. 4-8-110 License required
- Sec. 4-8-120 Fees
- Sec. 4-8-130 Certificate of inspection required

<i>Division 3</i>	<i>Regulations</i>
Sec. 4-8-210	Health and sanitary requirements
Sec. 4-8-220	Care of instruments
Sec. 4-8-230	Records
Sec. 4-8-240	Infections
Sec. 4-8-250	Pigments, dyes
Sec. 4-8-260	Bandages and surgical dressings
Sec. 4-8-270	Inspections
Sec. 4-8-280	Rules and regulations
Sec. 4-8-290	Tattooing of minors

ARTICLE 1

Business Licenses

Sec. 4-1-10. Purpose.

The purpose of this Chapter is the regulation and registration of businesses operating within the City for the health, safety and welfare of the citizens of the City and to enable the City to enforce the obligation of businesses to remit sales tax and business license fees to support the City. (Ord. 811 §1, 2009)

Sec. 4-1-20. License required; renewal.

(a) It is unlawful for any person to engage in the business of selling tangible personal property and to furnish certain taxable services, as described in Section 3-2-110 of this Code, without first having obtained a license on or before January 1 of each year. The license shall be granted and issued by the City Clerk at nominal charge, and shall be in force and effect until December 31 of the year in which it is issued, unless sooner revoked.

(b) Such licenses shall be granted and renewed only upon application, stating the name and address of the person desiring a license, the name of the business and location, and such other facts as the City Clerk may desire. It shall be the duty of each licensee on or before January 1 of each year to obtain a renewal thereof, if the licensee remains in the retail business and liable to account for the sales tax provided for in Chapter 3, Article 2 of this Code. However, nothing contained in this Section shall be construed to empower the City Clerk to refuse such renewal, except revocation for cause of the licensee's prior license. (Prior code 4-136; Ord. 811 §1, 2009)

Sec. 4-1-30. Separate license for each location.

Any person operating, conducting or carrying on any retail trade, profession or business within the City must obtain a separate license for each location of such trade, profession or business. (Ord. 811 §1, 2009)

Sec. 4-1-40. License contents, posting.

Each license shall be numbered, shall show the name, resident, 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. If the business is not operated, conducted or carried on at a fixed location, the licensee must carry the license upon his or her person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his or her license for examination when requested to do so by any police officer or by any person representing the City. (Prior code 4-137; Ord. 811 §1, 2009)

Sec. 4-1-50. Transfer of license.

No license shall be transferable, except by filing with the City Clerk an application for transfer. In case the licensee sells the business, the then-existing license shall become void and a new license shall be issued by the City Clerk for the location of the business upon the filing of an application for a license by the new owner. (Prior code 4-138)

Sec. 4-1-60. Suspension; revocation.

The City Council has the power at any time, upon violation by any holder of a license, as provided for in this Article or any of the regulations lawfully prescribed under this Article by the City Council, or upon violation of any provisions of the state statutes adopted by reference in Section 3-2-120 of this Code, to suspend or revoke any license at a hearing held before the City Council. Any device or method employed by the holder of a license to evade the payment of the sales tax owed to the City, as provided in Chapter 3, Article 2 of this Code, shall be sufficient cause for suspension or revocation of the license. (Prior code 4-138; Ord. 811 §1, 2009)

Sec. 4-1-70. Exemptions.

No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under the provisions of Chapter 3, Article 2 of this Code. (Prior code 4-139; Ord. 811 §1, 2009)

Sec. 4-1-80. Violation.

Any person engaged in the business of selling tangible personal property at retail in the City without having secured a license therefor, except as specifically provided in Section 4-1-70 above, shall be guilty of a violation of this Article. (Prior code 4-140)

ARTICLE 2

Alcoholic Beverages

Sec. 4-2-10. Adoption of state statutes.

The provisions of Section 12-47-101, et seq., C.R.S., relating to malt, vinous and spirituous liquors and Section 12-46-101, et seq., C.R.S., relating to fermented malt beverages, are adopted herein by reference into this Code, except as may be specifically amended by this Article. (Prior code 9-26)

Sec. 4-2-20. Definitions.

Words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in Sections 12-46-103 and 12-47-103, C.R.S., except where the context clearly indicates a different meaning. (Prior code 4-171)

Sec. 4-2-30. Declaration of policy and purpose.

The City Council finds, determines and declares, considering the nature of the business of selling at retail 3.2 percent beer, malt, vinous or spirituous liquors for beverage purposes and the relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required by the City and a proper, just and equitable distribution of tax burdens within the City, and all other matters proper to be considered in relation thereto, that the classification of the business as a separate occupation is reasonable, proper, uniform and nondiscriminatory and that the amount of fees imposed by this Article is reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of tax burdens within the City. (Prior code 4-172)

Sec. 4-2-40. License fees.

(a) Liquor licensing fees for the retail sale of alcoholic beverages are hereby adopted and shall be paid to the City in accordance with the schedule incorporated into this Code as Appendix 2-A(1). Said schedule of fees may be amended from time to time by resolution of the City Council.

(b) In addition to the City license fees, fines, etc., adopted in this Article, any other fees which may be imposed under the provisions of this Article shall be as established by the City Council from time to time and on file with the City Clerk. (Prior code 9-27, 9-28; Ord. 811 §1, 2009; Ord. 834, 2011)

Sec. 4-2-50. Classification.

The business of selling at retail any 3.2 percent beer, malt, vinous or spirituous liquor, other than medicinal liquors, for beverage purposes is defined and separately classified as such occupation for the purpose of this Article as follows:

(1) Class A operators. All operators who are licensed to sell beer, wine and spirituous liquors for consumption on the premises, either as hotels or restaurants, shall be Class A operators.

(2) Class B operators. All operators licensed to sell malt or vinous liquors only by the drink for consumption on the premises shall be Class B operators.

(3) Class C operators. All operators licensed as retail stores to sell, in original containers, malt, vinous or spirituous liquors for consumption off the premises shall be Class C operators.

(4) Class D operators. All operators licensed as drugstores to sell malt, vinous or spirituous liquors in original containers for consumption off the premises shall be Class D operators.

(5) Class E operators. All operators licensed to sell malt, vinous or spirituous liquors as clubs are Class E operators.

(6) Class F operators. All operators licensed to sell only 3.2 percent beer shall be classified as follows:

a. Class F1 operators. All operators licensed to sell or selling 3.2 percent beer for consumption off the premises of the licensee shall be Class F1 operators.

b. Class F2 operators. All operators licensed to sell or selling 3.2 percent beer for consumption on the premises of the licensee shall be Class F2 operators.

c. Class F3 operators. All operators licensed to sell or selling 3.2 percent beer for consumption both on and off the premises of the licensee shall be Class F3 operators.

d. Class F4 operators. All operators licensed to sell or selling 3.2 percent beer for consumption on the premises of the licensee as nonprofit organizations operated from City-owned premises shall be Class F4 operators. (Prior code 4-173)

Sec. 4-2-60. Levy of license fee.

In addition to the fees set forth in Section 4-2-40 above, there is levied and assessed for each year an annual license fee upon the business of selling 3.2 percent beer, malt, vinous or spirituous liquors, except medicinal liquors, in the City, as such occupation has been classified in Section 4-2-30 above, as follows:

- (1) For all Class A operators, the sum of five hundred dollars (\$500.00).
- (2) For all Class B operators, the sum of five hundred dollars (\$500.00).
- (3) For all Class C operators, the sum of three hundred seventy-five dollars (\$375.00).
- (4) For all Class D operators, the sum of three hundred seventy-five dollars (\$375.00).
- (5) For all Class E operators, the sum of one hundred dollars (\$100.00).
- (6) For all Class F1 operators, the sum of two hundred dollars (\$200.00).
- (7) For all Class F2 operators, the sum of five hundred dollars (\$500.00).
- (8) For all Class F3 operators, the sum of five hundred dollars (\$500.00).
- (9) For all Class F4 operators, the sum of one hundred dollars (\$100.00). (Prior code 4-174; Ord. 811 §1, 2009)

Sec. 4-2-70. Payment of license fees.

(a) The fees levied by this Article shall be due and payable to the City Clerk at the time a license is issued, renewed or transferred.

(b) Upon receipt of such fee, it shall be the duty of the City Clerk to execute and deliver to the operator paying the fee a revenue receipt showing the name of the operator, the date of payment, the annual period for which the fee is paid, the place at which the operator conducts business and the classification of the operator.

(c) The operator shall, at all times during the year, keep such receipt posted in a conspicuous place in his or her place of business.

(d) The fee is on an annual basis, and no proration shall be made where the business is used for only a portion of the year. No refund shall be made to any person who discontinues such business during the year. Interest shall accrue on all delinquent fees herein provided for from the day of delinquency until paid or collected, at the rate of one percent (1%) per month. (Prior code 4-175; Ord. 811 §1, 2009)

Sec. 4-2-80. Delinquency not grounds for revocation or suspension.

No delinquency in payment of the fees provided for in this Article shall be grounds for suspension or revocation of any license granted to any such operator by the Local Licensing Authority pursuant to the state statutes. In the performance of any duties imposed upon the City Council as the Local Licensing

Authority by the state statutes, the City Council shall exclude from consideration any delinquency in payment of the fees. (Prior code 4-176; Ord. 811 §1, 2009)

Sec. 4-2-90. Suspension; payment of fine.

(a) In any case involving a final decision by the City Council acting as the Local Licensing Authority of the City in suspending a retail liquor license or a fermented malt beverage license in accordance with the Colorado Liquor Code, Section 12-47-101, et seq., C.R.S., or the Colorado Beer Code, Section 12-46-101, et seq., C.R.S., to which reference is hereby made, the holder of such license shall be allowed to petition for permission to pay a fine in lieu of suspension. Such petition must be filed with the City Clerk prior to the operative date of such suspension. The granting or denying of such petition shall be discretionary with the Local Licensing Authority.

(b) The Local Licensing Authority shall not grant the petition unless it is satisfied that:

(1) The public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension;

(2) The payment of the fine will achieve the desired disciplinary purposes;

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

(4) The retail licensee has not had his or her license suspended or revoked or had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(c) The fine accepted shall be the equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of fermented malt beverages during the period of the proposed suspension, except that the fine shall not be less than two hundred dollars (\$200.00) or more than five thousand dollars (\$5,000.00).

(d) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash or in the form of a certified check or cashier's check made payable to the City.

(e) Upon payment of a fine pursuant to this Section, the Local Licensing Authority shall enter its further order permanently staying imposition of the suspension. Such moneys shall be paid into the general fund of the City.

(f) If the Local Licensing Authority does not grant the petition to pay a fine as above described, the suspension shall go into effect on the operative date set by the Local Licensing Authority. (Prior code 4-177; Ord. 811 §1, 2009)

Sec. 4-2-100. Recovery of fees by suit.

The City shall have the right to recover all sums due by the terms of this Article by judgment and execution thereon in a civil action in any court of competent jurisdiction. The remedy shall be cumulative

with all other remedies provided for the enforcement of this Article. (Prior code 4-178; Ord. 811 §1, 2009)

Sec. 4-2-110. Noncompliance deemed offense, conviction not to constitute revocation.

Failure to comply with the terms of this Article by payment of fees and securing and posting a receipt therefor, and to otherwise comply with the terms of this Article shall constitute an offense and violation of this Code. Delinquency for each calendar month shall constitute a separate and distinct offense; but no conviction for such violation shall work as a revocation of any licenses of the defendant issued under the laws of the State. (Prior code 4-179; Ord. 811 §1, 2009)

Sec. 4-2-120. Optional premises.

(a) An optional premises license and optional premises for a hotel and restaurant license may be issued by the Liquor Licensing Authority. Any applicant holding a fermented malt beverage license shall cancel and surrender such license before or at the time of issuance of an optional premises license.

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

(1) Eligible facilities. Outdoor sports and recreational facilities, as defined in Section 12-47-103(22), C.R.S., are eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.

(2) Number of optional premises. The number of optional premises which any one (1) licensee may have on an outdoor sports or recreational facility shall be established by the Local Licensing Authority prior to issuance of any optional premises license.

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

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

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

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

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

(4) Any designation of optional premises shall be at a distance of at least five hundred (500) feet from the exterior boundary of the Monte Vista School District.

(5) The applicant shall not allow nor suffer the serving of alcoholic beverages outside the area designated and approved in the application and shall take reasonable precautions to ensure that customers and patrons do not transport or remove served beverages outside the perimeter of the facility. The applicant shall describe the provisions which have been made to control the optional premises in its application.

(6) Advance notification. Pursuant to Section 12-47-310(4), C.R.S., no alcoholic beverages may be served on the optional premises without the licensee having provided written notice to the state and local licensing authorities forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notices shall contain the specific days and hours on which the optional premises are to be used. There shall be no limitation on the number of days which the licensee may specify in each notice; provided, however, that no notice may specify any date of use that is more than two hundred seventy (270) days from the notice date.

(7) Manager. The licensee shall report the name, address and phone numbers of the manager of the optional premises within the application for a license and shall report any change in managers to the City Clerk within thirty (30) days of such change.

(8) The applicant shall describe proposed hours of service in its application and whether such hours are applicable throughout all locations of service or are specific only to certain locations.

(9) The applicant shall remit all applicable state and local license fees at the time of making application for an optional premises license.

(10) The applicant shall be subject to and abide by all applicable state and local laws and ordinances regarding alcoholic beverages.

(d) Nothing contained in this Section shall give any applicant operating an eligible facility the right to an optional premises license. The City Council, acting as the Local Licensing Authority, reserves the right to consider each optional premises license application on a case-by-case basis. (Ord. 811 §1, 2009; Ord. 838, 2012)

Sec. 4-2-130. Alcohol beverage tastings authorized.

Pursuant to Section 12-47-301(10), C.R.S., the City authorizes alcohol beverage tastings for licensed retail liquor stores and liquor-licensed drug stores within the City. The City shall not require a further application prior to allowing retail liquor licensees to conduct alcohol beverage tastings, and elects not to impose additional limitations on such tastings beyond those limitations set forth in Chapter 47 of Title 12, C.R.S. (Ord. 811 §1, 2009)

Sec. 4-2-140. Educational requirements.

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the Liquor Licensing Authority with an application of renewal of a liquor license. (Ord. 811 §1, 2009)

Sec. 4-2-150. Penalty for violation.

Every person convicted of a violation of any provision of this Article shall be punished as provided in Section 1-4-20 of this Code. (Prior code 4-180)

ARTICLE 3

Amusements

Sec. 4-3-10. Circus, contest, exhibit, carnival, certain amusement devices.

It is unlawful for any person to manage, operate or carry on for gain within the City any circus, contest or exhibition, carnival, merry-go-round, Ferris wheel or similar amusement device, caravan exhibition, show or other place of amusement, or to make an exhibition of any natural or artificial curiosity, without first having obtained a license and paying a fee as determined from time to time by resolution of the City Council and on file in the City Clerk's office. No license shall be required for any school exhibition, graduating ceremonies, school entertainment, other public festivals or concerts given for the exclusive benefit of any religious or patriotic society or church, or charitable purposes. No license shall be required for a City-sponsored event or for a community-sponsored event which is determined by the City Council to be a public benefit. (Prior code 9-51)

Sec. 4-3-20. Arcades or video games.

Any person operating five (5) or more video games or mechanical amusement devices within the same general building or business area shall be classified as an arcade and shall be subject to an annual arcade licensing fee, in addition to a fee per machine as determined by resolution of the City Council and on file in the City Clerk's office. Any person operating less than five (5) video games or mechanical amusement devices shall be subject only to an annual fee per machine as determined by resolution of the City Council. (Prior code 9-52)

ARTICLE 4

Contractors

Sec. 4-4-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings as ascribed to them in this Section, except where the context clearly indicates a different meaning:

Contractor means any person who, for a fixed or determinable sum of money or compensation other than wages, undertakes or agrees to undertake for another the construction, alteration or repair of any building or structure affixed to real property, or any part thereof; provided, such term shall not include, and this Article shall not apply to, persons installing, repairing or altering plumbing or electrical wiring, fixtures or appliances, or to gas fitters.

General contractor means any contractor who undertakes or agrees to undertake any such construction, alteration or repair which requires the services of a person engaged in two (2) or more different trades.

Limited contractor means any contractor who undertakes or agrees to undertake any such construction, alteration or repair which requires the services of a person engaged in one (1) trade only.

Trade means an occupation requiring special mechanical and technical knowledge and skill, including masonry, carpentry, plastering, painting and papering, glazing, roofing and all other occupations carried on in the construction, alteration or repair of buildings or structures requiring special knowledge and skill for the performance thereof.

Wages means compensation paid for services measured solely by the time spent in performance of such service multiplied by the rate of compensation per unit of time. (Prior code 9-76; Ord. 811 §1, 2009)

Sec. 4-4-20. License required.

No person shall engage in the business of contractor, either general or limited, within the City, unless a contractor's license is applied for. There shall be issued to such person a contractor's license for the current year, as provided in this Article. (Prior code 9-77)

Sec. 4-4-30. Application procedure.

Any person desiring a license as general contractor or as limited contractor shall submit to the City Clerk an application for such license on a form to be provided by the City. All applicants shall be required to carry liability insurance, in the amount of not less than \$50,000.00/\$100,000.00. A license fee which is on file in the City Clerk's office shall be paid for the original general contractor's license. The fee for each annual renewal is on file in the City Clerk's office. (Prior code 9-78)

Sec. 4-4-40. Issuance of license.

Upon receipt of an application for a license, the City Clerk shall issue a license to the applicant. Upon refusal of any license based on the requirements in Section 4-4-30 above, the fee therefor paid in advance shall be returned to the applicant. (Prior code 9-79)

Sec. 4-4-50. Contents of license.

Each license shall contain a statement of whether it is a general or limited contractor's license and, if limited, the trade to which its exercise is limited. Each license shall also contain a permanent address and telephone number for each applicant. (Prior code 9-80)

Sec. 4-4-60. Expiration date.

All licenses issued under this Article shall expire on December 31 of the year of issue. (Prior code 9-81)

Sec. 4-4-70. Revocation, suspension, rejection; hearing.

Any license issued or applied for pursuant to this Article may be revoked, suspended or refused when the licensee or applicant intentionally and openly violates the federal, state and municipal laws, rules and ordinances pertaining to the building trades. However, no license shall be revoked or suspended for the reason contained in this Section, except by action of the City Council upon a verified complaint, filed with the City Council by a party directly affected by such violation, setting forth the violations, and unless such complaint or a part thereof shall, in the opinion of a majority of the City Council present at a meeting thereof, be sustained by evidence presented at a hearing before the City Council. The licensee shall be given notice of the hearing and a copy of the complaint at least ten (10) days prior to the hearing. He or she shall be permitted to be present and be represented by counsel at such hearing and present evidence thereat in his or her own behalf. (Prior code 9-82; Ord. 811 §1, 2009)

ARTICLE 5

Franchises

Sec. 4-5-10. Account of negotiating expense required.

During franchise negotiations, the City shall maintain an account of all expenses incurred, including but not limited to staff costs, expert consulting fees, legal fees and expenses. (Prior code 9-106)

Sec. 4-5-20. Notice of costs to franchisee.

The City shall mail by certified mail, return receipt requested, to the franchisee an accounting of all costs thus incurred during franchise negotiations within thirty (30) days after the adoption of the franchise agreement. Such accounting will itemize all costs incurred by the City, including but not limited to City staff expenses, including overtime, expert consulting fees, legal fees and related expenses. (Prior code 9-107)

Sec. 4-5-30. Payment by franchisee.

The franchisee shall pay to the City all costs incurred in the negotiation of a franchise pursuant to this Article within thirty (30) days of mailing of the accounting. Failure to pay shall constitute a material breach of the terms of the franchise, unless the franchisee protests the reasonableness of the costs in the manner set forth within this Article. (Prior code 9-108)

Sec. 4-5-40. Protest, hearing.

If the franchisee disputes the reasonableness of the charges imposed under this Article, it may seek review of the assessment by filing a protest with the City Council within thirty (30) days of the mailing of the accounting statement. If such a protest is filed, the City Manager shall appear before a City staff member specifically designated to hear this matter by the City Council at a date specified. The franchisee shall be notified of this hearing date by certified mail, return receipt requested. At this hearing, the franchisee may present evidence regarding the reasonableness of the charges. The franchisee shall bear the burden of proof. The City Manager may respond to any allegations of unreasonableness. (Prior code 9-109)

Sec. 4-5-50. Scope of hearing.

The hearing provided for in this Article shall be for the purpose of hearing protests as to the reasonableness of the expenses incurred. The hearing officer is not authorized to challenge the prerogative of the City in incurring the expenses. (Prior code 9-110)

Sec. 4-5-60. Conduct of hearing.

At the hearing designated for the purpose of this Article, evidence may be received in the form of documents, exhibits and witnesses. The hearing officer shall have all powers necessary to ensure the fair and efficient conduct of the hearing, but shall not be bound by the Colorado Rules of Evidence. The hearing shall be open to the public. (Prior code 9-111)

Sec. 4-5-70. Approval by hearing officer; review by City Council.

The hearing officer may recommend approval of the charges or make alterations based upon the evidence presented. The City Council, at its next regularly scheduled meeting, shall either approve or reject the recommendation of the hearing officer. Any action of the City Council is final and payment must be made within seven (7) days. Nonpayment will constitute a material breach of the terms of the franchise. (Prior code 9-112)

Sec. 4-5-80. Liability for challenge of Article.

Any entity challenging the validity, legality or constitutionality of this Article, if unsuccessful, will reimburse the City for all costs incurred, including attorneys' fees, in such litigation. (Prior code 9-113)

ARTICLE 6

Peddlers, Solicitors and Transient Merchants

*Division 1
Generally*

Sec. 4-6-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Peddler means any person, whether or not a resident of the City, who goes from business to business or residence to residence, conveying or transporting goods, wares or merchandise, offering or exposing the same for sale or making sales and delivering articles to purchasers.

Solicitor means any person, whether or not a resident of the City, who goes from business to business or residence to residence, soliciting, taking or attempting to take orders for the sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery, for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order, or whether or not he or she is collecting advance orders. This definition includes any person who, for himself, herself or

another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or other place within the City for the primary purpose of exhibiting samples and taking orders for future delivery.

Transient merchant means any person, whether as owner, agent, consignee or employee, whether or not a resident of the City, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in a hotel lodging house, apartment, shop or any street, alley or other place within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition does not include any person who, while occupying such temporary location, does not sell from stock but exhibits samples for the purpose of securing orders for future delivery within the provisions of this Article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer. (Prior code 9-161; Ord. 811 §1, 2009)

Sec. 4-6-20. License required.

It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the City without first obtaining a license in compliance with the provisions of this Article. (Prior code 9-162)

Sec. 4-6-30. Exemptions.

The terms of this Article do not include the acts of persons selling personal property at wholesale to dealers in such articles, newspaper subscriptions or the acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this Article prohibits any sale required by statute or by order of any court, or prevents any person from conducting a bona fide auction pursuant to law. (Prior code 9-163)

Sec. 4-6-40. Peddling to private residences prohibited.

The practice of going in and upon private residences in the City by peddlers, solicitors or transient merchants, photographers, magazine salesmen and/or itinerant dealers, not having been invited to do so by the owner or occupant of such private residence, for the purpose of obtaining orders for services, for the sale of goods, wares and/or merchandise and/or for the purpose of disposing of the same, is unlawful. (Prior code 9-164)

Sec. 4-6-50. Use of streets.

No licensee under this Article shall have any exclusive right to any location in the public streets, be permitted a stationary location thereon or be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this Article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Prior code 9-166; Ord. 811 §1, 2009)

Sec. 4-6-60. Records.

The Chief of Police shall report to the City Clerk all convictions for violation of this Article. The City Clerk shall maintain a record for each license issued and record the reports of violation therein. (Prior code 9-167)

Sec. 4-6-70. Penalty for violation.

- (a) It is unlawful for any person to violate any of the provisions stated or adopted in this Article.
- (b) Every person convicted of a violation of any provisions stated or adopted in this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 9-165)

Division 2
License

Sec. 4-6-110. Application.

Applicants for a license under this Article shall file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk, which shall give the following information:

- (1) Name and physical description of the applicant.
- (2) Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) The source of supply of the goods or property proposed to be sold or for the sale of which orders are proposed to be taken, where such goods or products are located at the time the application is filed and the proposed method of delivery.
- (7) A recent photograph of the applicant, which picture shall be approximately two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear and distinguished manner.
- (8) The names of at least two (2) property owners in the San Luis Valley of Colorado who will certify the applicant's good character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
- (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor.

(10) The last cities or towns, not to exceed three (3), where the applicant carried on business immediately preceding the date of application, and the addresses from which such business was conducted in those municipalities.

(11) A complete set of fingerprints, which shall be taken by the Police Department. (Prior code 9-181)

Sec. 4-6-120. Religious and charitable organization exemptions.

(a) Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization, upon the streets, in offices or office buildings, by house-to-house canvass or in public places for a charitable, religious, patriotic or philanthropic purpose, other than organizations based outside of the City, or organizations which do not have a branch or representative organization within the City, shall be exempt from the provisions of Sections 4-6-110, 4-6-160 and 4-6-170 of this Division; provided that there is filed a sworn application in writing, on a form to be furnished by the City Clerk, which shall give the following information:

(1) The name and purpose of the cause for which the permit is sought.

(2) The names and addresses of the officers and directors of the organization.

(3) The period during which solicitation is to be carried on.

(4) Whether or not any commission fees, wages or emoluments are to be expended in connection with such solicitation, and the amount thereof.

(b) Such organizations shall be subject to investigation as provided in Sections 4-6-130 and 4-6-140 below. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the City Clerk shall issue a permit without charge to such organization, association or corporation to solicit in the City. Such organization, association or corporation shall furnish to all of its members, agents or representatives conducting solicitation credentials in writing stating the name of the organization, the name of the agent and purpose of solicitation. If such organization is not based within the City or does not have a branch representative organization within the City, then Paragraphs 4-6-110(7) through (11) above shall be applicable to the application for such solicitation, in addition to the information required in this Section. Failure to provide such information shall preclude the organization or any of its representatives from conducting solicitation or distribution activities within the City. Sections 4-6-130 and 4-6-140 below, relating to investigation and application disapproval, shall likewise be applicable to such organizations; provided, however, that no application or license fee shall be charged to any religious, charitable or philanthropic organization. (Prior code 9-182)

Sec. 4-6-130. Investigation.

Upon receipt of each application under this Division, it shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business and character as he or she deems necessary for the protection of the public good and shall endorse the application in the manner prescribed

in Sections 4-6-140 and 4-6-150 below within five (5) days, unless a longer time is necessary to complete the investigation, after it has been filed by the applicant with the City Clerk. (Prior code 9-183)

Sec. 4-6-140. Disapproval of license application.

If, as a result of the investigation described in Section 4-6-130 above, the applicant's character or business responsibility is found to be unsatisfactory based on a background and criminal investigation, the Chief of Police shall endorse on the application his or her disapproval and his or her reason for the same, and return the application to the City Clerk, who shall notify the applicant that his or her application is disapproved and that no license will be issued. (Prior code 9-184)

Sec. 4-6-150. Approval of license application.

If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his or her approval and return the application to the City Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his or her license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the class of license issued, the kind of goods to be sold thereunder, the amount of the fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, solicitor or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The City Clerk shall keep a permanent record of all licenses issued. (Prior code 9-185)

Sec. 4-6-160. License fee.

The fee for each application under this Division shall be uniform and shall be set on a yearly basis by resolution of the City Council which is on file in the City Clerk's office. (Prior code 9-186)

Sec. 4-6-170. Bond.

Every applicant for a license under this Division not a resident of the County or who, being such resident, represents a firm whose principal place of business is located outside the State, shall file with the City Clerk a surety bond, running to the City, in the amount of one thousand dollars (\$1,000.00), with surety acceptable to and approved by the City Council, conditioned that the applicant shall comply fully with all the provisions of this Article and the state statutes regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants or itinerant vendors, as the case may be, guaranteeing to any citizen of the City that all money paid as a down payment will be accounted for and applied according to the representations of the licensee and further guaranteeing to any citizen of the City doing business with the solicitor that the property purchased will be delivered according to the representations of the solicitor. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given, but the surety may be relieved without costs of all further liability by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced. Such bonding provisions shall not apply to religious, charitable or philanthropic organizations, as described in Section 4-6-120 above. (Prior code 9-187)

Sec. 4-6-180. Exhibition.

Licensees under this Article are required to exhibit their licenses at the request of any person. (Prior code 9-188; Ord. 811 §1, 2009)

Sec. 4-6-190. Cause for revocation.

In addition to all other causes provided by law, licenses issued under the provisions of this Article may be revoked by the City Council after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or incorrect statement contained in the application for license.

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his or her business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

(3) Any violation of this Article.

(4) Conviction of any crime or misdemeanor.

(5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in violation of federal, state or local laws or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (Prior code 9-189)

Sec. 4-6-200. Hearing on revocation.

Notice of the hearing for revocation of a license issued under this Article shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least ten (10) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least ten (10) days prior to the date set for hearing. (Prior code 9-190)

Sec. 4-6-210. Appeal.

Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a license, as provided in Section 4-6-140 of this Division, may appeal to the City Council. Such appeal shall be taken by filing with the City Council, within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on the appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 4-6-200 above, for notice of the hearing on revocation. At the time set for hearing as provided in this Section, the City Council shall either affirm or reverse the action aggrieved of, and the City Council's decision shall be final. (Prior code 9-191)

Sec. 4-6-220. Reapplication.

No licensee under this Article whose license has been revoked shall make further application until at least six (6) months have elapsed since the last previous revocation. (Prior code 9-192)

ARTICLE 7

Security Services

Sec. 4-7-10. Purpose.

The purpose of this Article is to increase the levels of integrity, competence and performance of contract security personnel in order to safeguard the public against illegal, improper or incompetent actions committed by private security personnel. (Prior code 9-217)

Sec. 4-7-20. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Contract security service means any person who conducts or is engaged in the business of providing protection to persons and/or property, or preserving the peace in the conduct of any business. This definition specifically excludes employment of a person by any business to apprehend shoplifters, employment of persons by any common carrier engaged in interstate commerce, employment of maintenance men, janitors, repairmen or employment of officers of the Police Department engaged in off-duty employment; and the same are hereby excepted from the terms of this Article.

Security guard means any individual who accepts employment from any employer providing contract security services. (Prior code 9-218)

Sec. 4-7-30. License required.

It shall be unlawful for any person to engage in the business of contract security services within the City or to act as a security guard within the City without having first obtained a license from the City. (Prior code 9-219)

Sec. 4-7-40. License qualifications.

(a) Every applicant for a license under this Article shall meet the following qualifications as applicable before he or she may obtain a license to act as security guard or conduct a contract security service within the City:

- (1) Be at least twenty-one (21) years of age.
- (2) Be a citizen of the United States or a resident alien.
- (3) Not have been declared, by any court of competent jurisdiction, incompetent by reason of mental defect or disease and not been restored.
- (4) Not be suffering from habitual drunkenness or from narcotics addiction or dependence.
- (5) Be of good character.

(b) Each applicant shall be required to pass an examination or test administered by the Chief of Police. Such examination or test shall be designed to measure an individual's knowledge and competence to provide security services. (Prior code 9-220)

Sec. 4-7-50. License application.

(a) Applicants for a license as a contract security service or security guard shall file an application with the Chief of Police on forms to be provided by him or her for that purpose, which shall contain at least the following information:

(1) A description of the nature and type of business to be conducted, the services to be offered and the area to be covered in the conduct of the business.

(2) A statement as to the number and identity of persons to be employed as agents or employees.

(3) A statement as to the type and number of vehicles to be used in the business, a description of vehicles and equipment to be used in providing protection and other pertinent facts relating to the vehicle requested by the Chief of Police.

(4) The name and address of the person by whom the applicant is to be employed.

(b) Each applicant for a license shall be required to furnish the following:

(1) A statement of the applicant's convictions of any felony, misdemeanor or ordinance violation (other than traffic violations); the nature of the offense; the penalty or punishment imposed; and the date and place where such event occurred.

(2) A statement as to whether or not an applicant has ever had a judgment entered against him or her for fraud, deceit or misrepresentation and, if so, details thereof.

(3) A statement as to the business or employment record of the applicant for the ten (10) years immediately preceding the date of the application.

(4) Three (3) letters certifying to the good character and business responsibility of the applicant.

(5) A certificate of a licensed physician reciting that the applicant has been examined by him or her within sixty (60) days prior to the date of application, and was found to be free from any physical defects which would affect his or her ability to satisfactorily perform the duties required by his or her employer.

(6) Two (2) current passport-sized photographs.

(7) Two (2) sets of fingerprints to be taken by the Police Department. (Prior code 9-221)

Sec. 4-7-60. Investigation of applicant.

(a) Upon receipt of each application for a license under this Article, the Chief of Police shall immediately institute such investigation of the applicant's business and moral character as he or she

deems necessary for the protection of the public good, and shall endorse the application within two (2) weeks after it has been filed.

(b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse upon such application his or her disapproval and his or her reasons for the same, and shall return the application to the applicant; and no license shall be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse upon the application his or her approval and instruct the City Clerk to issue a license. (Prior code 9-222)

Sec. 4-7-70. Application and license fees.

(a) All applications for licenses shall be accompanied by an application fee which is on file in the City Clerk's office.

(b) A new or renewal license fee shall be as on file in the City Clerk's office. (Prior code 9-223)

Sec. 4-7-80. Insurance requirements.

All licensees under this Article shall file with the Chief of Police a certificate of insurance evidencing comprehensive general liability coverage for bodily injury, personal injury and property damage, with endorsements for assault and battery and personal injury, including false arrest, libel, slander and invasion of privacy, in the minimum amount of three hundred thousand dollars (\$300,000.00) for bodily or personal injury and one hundred thousand dollars (\$100,000.00) for property damage. Licensees shall also file endorsements for damage to property in their care, custody and control and for errors and omissions. The certificates shall provide that the insurance shall not be modified or cancelled unless ten (10) days' prior notice has been given to the Chief of Police. (Prior code 9-224)

Sec. 4-7-90. Issuance.

A license shall be issued under this Article to an applicant who satisfies the requirements of this Article and additionally satisfies all the following requirements:

(1) The applicant is twenty-one (21) years of age or older and is a citizen of the United States of America or a resident alien.

(2) The applicant has not been convicted of a felony, misdemeanor or violation of a municipal ordinance pertaining to moral turpitude within ten (10) years immediately preceding the date of the application.

(3) The applicant has not been convicted of fraud, deceit or misrepresentation within ten (10) years immediately preceding the date of the application.

(4) The applicant does not have a record of conviction of drug addiction, alcoholism or violent acts against persons or property.

(5) The applicant has presented medical evidence that his or her mental and physical condition are such as to warrant confidence that the service rendered will not jeopardize the health, safety or welfare of any persons.

(6) The applicant is a person whose character and reputation are sufficient to warrant confidence that the service rendered will not jeopardize the health, safety or welfare of any person.

(7) The applicant has met all other requirements of this Article. (Prior code 9-225; Ord. 811 §1, 2009)

Sec. 4-7-100. Identification cards, badges, uniforms and equipment.

(a) Identification cards. The Chief of Police shall issue to each licensee an identification card, which shall be approximately two and one-half (2½) inches by four and one-half (½) inches and shall contain the following information:

(1) The type of license issued and the date of expiration.

(2) The name, address, physical description and picture of the licensee.

(3) The name of the employer.

(4) The signatures of the licensee and the Chief of Police.

(5) A statement from the Chief of Police as to whether or not the licensee is licensed to carry a firearm.

(6) Such other information as the Chief of Police may deem necessary.

(b) Badges. No badge shall be worn by any licensee which is an imitation of badges worn by officers of the Police Department, the County Sheriff's Department or the State Patrol.

(c) Vehicles. No vehicle shall be used which may be confused with those vehicles used by the Police Department, the County Sheriff's Department or the State Patrol, nor shall any vehicle be equipped with siren or lights except for lights normally required on civilian motor vehicles.

(d) Advertising. The word *police* or *officer* shall not be used in any advertisement column, upon any premises within the limits of the City, or on any vehicles or equipment used by the licensee.

(e) Uniforms. The uniforms, if any, worn by security guards while employed within the City will be of a color and type as approved by the Chief of Police; however, no uniforms will be approved that are imitations of or can be confused with the uniforms of the Police Department, the County Sheriff's Department or the State Patrol.

(f) Additional information. The Chief of Police may request of each licensee further information on equipment, vehicles, uniforms or badges used by the licensee; may request samples, pictures or inspection of such item; and may issue an order denying use of any item which contravenes this Section. (Prior code 9-226; Ord. 811 §1, 2009)

Sec. 4-7-110. Training requirements.

(a) Prior to being issued a license under this Article, all security guards shall receive at least eight (8) hours of general training as prescribed by the Chief of Police and be required to successfully pass an examination on the material which includes the following topics:

- (1) Orientation: two (2) hours.
- (2) Legal powers and limitations of a security guard: two (2) hours.
- (3) Emergency procedures: two (2) hours.
- (4) General duties: two (2) hours.

(b) All armed security guards shall also receive firearms training before being issued a firearm. The minimum firearms preassignment training shall be required:

(1) Preissue weapon instructions and successful examination, including but not limited to the following topics:

- a. Legal limitations on use of weapons.
- b. Handling of the weapon.
- c. Safety and maintenance.

(2) Minimum marksmanship qualification requirement: a minimum of sixty percent (60%) on any approved silhouette target course prescribed by the Chief of Police.

(c) All armed security guards must complete an annual eight-hour refresher course on the subjects prescribed.

(d) Each applicant shall provide satisfactory written proof of completion of training required by this Section. (Prior code 9-227; Ord. 811 §1, 2009)

Sec. 4-7-120. Firearms.

(a) No licensee under this Article shall have the right to carry firearms except when specifically authorized in writing by the Chief of Police, who may grant such authority only when, in his or her opinion, the duties to be performed and the services to be rendered require that a firearm be carried for the protection of the licensee, and only when the licensee demonstrates that he or she is proficient in the care, maintenance and use of firearms as prescribed in this Article.

(b) Each licensee requesting such authorization shall furnish to the Chief of Police all information requested on such firearms, such as make, caliber and serial number, and must further notify the Chief of Police if there is a change in firearms. Such authorization shall be good only in the performance of the duty for which the license has been issued and shall not constitute a permit to carry a concealed weapon. (Prior code 9-228)

Sec. 4-7-130. Change in personnel.

(a) Any contract security service shall notify the Chief of Police of the termination or dismissal of any employee licensed under this Article and the reason for the termination or dismissal.

(b) Any licensee shall surrender his or her license and identification card upon termination or dismissal from employment.

(c) Any licensee changing his or her place of business or abode shall immediately notify the Chief of Police of such fact, together with the new place of business or abode; however, this shall not be deemed to be a transfer of license or require the payment of a new fee. (Prior code 9-229)

Sec. 4-7-140. Unlawful acts.

(a) It shall be unlawful for any person to engage in or conduct a business of security service, or to act as such business or as a security guard, without obtaining a license as provided in this Article.

(b) It shall be unlawful for any licensee to fail to exhibit his or her certificate of license and identification card to any police officer upon demand.

(c) It shall be unlawful for any licensee to fail to turn over any person arrested by such licensee pursuant to the laws of the State immediately to the Police Department or other public law enforcement agency.

(d) It shall be unlawful for any licensee to fail to report promptly to the Police Department when he or she fires a firearm within the City.

(e) It shall be unlawful for any licensee to hinder or interfere with any investigation under the jurisdiction of any public law enforcement agency.

(f) It shall be unlawful for any licensee to fail to report immediately to the Police Department all violations of the municipal ordinances or to fail to report to the Police Department or other public law enforcement agency all violations of state or federal laws which constitute felonies or a breach of the peace, coming to his or her attention.

(g) It shall be unlawful for any licensee to wear a uniform, badge or insignia other than that authorized by the Chief of Police while engaged in his or her course of employment.

(h) It shall be unlawful for any licensee to represent himself or herself to be an officer of the Police Department.

(i) It shall be unlawful for any licensee to fail to conduct himself or herself in a lawful manner at all times.

(j) It shall be unlawful for any applicant to knowingly misrepresent any facts in connection with obtaining a license under this Article.

(k) It shall be unlawful for any licensee to carry firearms without designation on the license while in the performance of duties as a security guard.

(l) It shall be unlawful for any licensee to fail to surrender his or her identification card or badge after discharge or termination. (Prior code 9-230)

Sec. 4-7-150. Revocation or suspension of license.

The Chief of Police may revoke or suspend a license issued under this Article if:

(1) He or she finds that the licensee has engaged in any act of coercion, threat or harassment in order to obtain business.

(2) Any licensee fails to record all contracts for provisions of security services with the Chief of Police.

(3) He or she receives notification from the insurance carrier of any licensee that such insurance has been or will be revoked or modified.

(4) That the licensee shall have falsified or misrepresented any facts on his or her application.

(5) The licensee has done anything which would have denied him or her his or her license when originally applied for.

(6) The licensee has violated any provision of this Article which would bring into question the licensee's ability to continue his or her duties as a security guard or contract security service. (Prior code 9-231; Ord. 811 §1, 2009)

Sec. 4-7-160. Rules and regulations.

The Chief of Police may issue and promulgate from time to time rules and regulations to provide for the health, safety and welfare of the City in relation to the contract security service business. Such rules may pertain by way of example to duties of the licensees, manner of conduct and reports to be furnished to the Chief of Police. (Prior code 9-232)

Sec. 4-7-170. Appeal procedures.

Any person aggrieved by the action of the Chief of Police in the denial or revocation of a license, or in rules and regulations, as provided in this Article, may appeal to the City Council. Such appeal shall be taken by filing with the City Council, within fourteen (14) days after notice of the action complained of, a written statement setting forth the grounds for the appeal. The City Council shall set the time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in writing. (Prior code 9-233)

Sec. 4-7-180. Duty of citizens.

(a) Any person residing in or doing business in the City and having reason to employ a contract security service or security guard shall have a duty to request the party employed to produce a valid license for the City and shall refuse to employ such person until such license is secured and produced.

(b) Any person is also under a duty to bring to the attention of the Chief of Police any irregularities relating to the provision of security services. (Prior code 9-234)

Sec. 4-7-190. Bond.

(a) Any person licensed as a contract security service or security guard shall furnish a good and sufficient cash or corporate security bond in the sum of five thousand dollars (\$5,000.00), conditioned upon faithful compliance with the terms of this Article and the legal conduct of the security service or security guard.

(b) Such bond shall be payable to the City and, in addition, shall provide for the compensation or reimbursement of any person employing the licensee and suffering loss or injury because of any wanton, willful or illegal act of the licensee or his or her agents or employees. (Prior code 9-235)

ARTICLE 8

Tattoo Establishments

Division 1

Generally

Sec. 4-8-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Certificate of inspection means written approval from the Health Officer that the tattooing establishment has been inspected and meets all of the terms of this Article relating to physical facilities, equipment and layout for the operation of such business.

Health Officer means the Colorado Division of Public Health and Environment.

Operator means any person who owns or operates an establishment where tattooing is performed and any individual who performs or practices the art of tattooing on the person of another.

Tattoo, tattooed or tattooing refers to any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink, with any other substance resulting in the coloration of the skin by the aid of needles, or with any other instruments designed to touch or puncture the skin. (Prior code 9-256)

Sec. 4-8-20. Penalty for violations.

Any person who violates any of the provisions of this Article, upon conviction, shall be punished by revocation of any license or permit issued hereunder if a license or permit has been issued to such person, and pursuant to Section 1-4-20 of this Code. (Prior code 9-257)

Division 2
License

Sec. 4-8-110. License required.

It shall be unlawful for any person to engage in the business of operating a tattoo establishment without first obtaining a license to engage in such business in accordance with the provisions of this Article. No person shall engage in the business of tattooing without operating a proper tattoo establishment pursuant to the health and sanitary requirements as specified in this Article. (Prior code 9-271)

Sec. 4-8-120. Fees.

Application for a license required by this Article shall be made for any tattoo establishment upon forms furnished by the City Clerk. An application fee and annual licensing fee shall be established by resolution of the City Council and shall be duly paid by any applicant and operator as described in this Article. (Prior code 9-272)

Sec. 4-8-130. Certificate of inspection required.

An applicant for a license to operate a tattooing establishment shall first obtain a certificate of inspection from the Health Officer, indicating that the establishment has been inspected and is in compliance with the provisions of this Article, and shall present the same to the City Clerk prior to the issuance of any license. (Prior code 9-273; Ord. 811 §1, 2009)

Division 3
Regulations

Sec. 4-8-210. Health and sanitary requirements.

Every person who operates a tattooing establishment shall comply with the following requirements:

(1) The room in which tattooing is done shall have an area of not less than one hundred (100) square feet. The walls, floors and ceiling shall have an impervious, smooth and washable surface.

(2) A toilet shall be located in the establishment and shall be accessible at all times that the tattooing establishment is open for business. The lavatory shall be supplied with hot and cold running water, soap and sanitary towels and shall be located in the room where the tattooing is performed.

(3) All tables and other equipment shall be constructed of easily cleanable material, shall be painted or finished in a light color with a smooth washable finish and shall be separated from waiting customers or observers by a panel at least four (4) feet high.

(4) The entire premises and equipment shall be maintained in a clean, sanitary condition and in good repair.

(5) The operator shall wash his or her hands thoroughly with soap and water before starting to tattoo; the hands shall be dried with individual, single-use towels.

(6) No tattooing shall be done on any skin surface which has a rash, pimples, boils or infections or manifests any evidence of unhealthy conditions.

(7) No skin area shall be penetrated, abraded or treated with chemicals for the purpose of removing, camouflaging or altering any blemish, birthmark, scar or tattoo.

(8) A safety razor with a new, single-service blade or a straight-edge razor may be used for each customer or patron. If used, the straight-edge razor shall be thoroughly cleaned and sterilized as required by the Health Officer before use on each customer or patron.

(9) The area to be tattooed shall first be thoroughly washed for a period of two (2) minutes with warm water to which has been added an antiseptic liquid soap. A sterile single-use sponge shall be used to scrub the area. After shaving and before tattooing is commenced, a solution of seventy-percent alcohol shall be applied to the area with a single-use sponge used and applied with a sterile instrument.

(10) Only petroleum jelly in collapsible metal or plastic tubes, or its equivalent as approved by the Health Officer, shall be used on the area to be tattooed and it shall be applied with sterile gauze.

(11) The use of styptic pencils, alum blocks or other solid styptics to check the flow of blood is prohibited.

(12) Inquiry shall be made, and anyone giving a history of recent jaundice or hepatitis may not be tattooed.

(13) Single-service or individual containers of dye or ink shall be used for each patron, the container therefor shall be discarded immediately after completing work on a patron and any dye in which the needles were dipped shall not be used on another person. Excess dye or ink shall be removed from the skin with an individual sponge or a disposable paper tissue which shall be used only on one (1) person and then immediately discarded. After completing work on any person, the tattooed area shall be washed with sterile gauze saturated with an antiseptic soap solution approved by the Health Officer or a seventy-percent alcohol solution. The tattooed area shall be allowed to dry and petroleum jelly from a collapsible or plastic tube shall be applied, using sterile gauze. A sterile gauze dressing shall then be fastened to the tattooed area with adhesive. (Prior code 9-286; Ord. 811 §1, 2009)

Sec. 4-8-220. Care of instruments.

(a) Storing of instruments. All clean and ready-to-use needles and instruments shall be kept in a closed glass or metal case or storage cabinet while not in use. Such case or cabinet shall be maintained in a sanitary manner at all times.

(b) Sterilizing of instruments. A steam sterilizer (autoclave) shall be provided for sterilizing all needles and similar instruments before use on any customer, person or patron. Alternate sterilizing procedures may only be used when specifically approved by the Health Officer. Sterilization of equipment will be accomplished by exposure to live steam for at least thirty (30) minutes, at a minimum pressure of fifteen (15) pounds per square inch, and at a minimum temperature of two hundred forty (240) degrees Fahrenheit.

(c) Use of instruments. The needles and instruments required to be sterilized shall be so used, handled and temporarily placed during tattooing so that they will not be contaminated. (Prior code 9-287; Ord. 811 §1, 2009)

Sec. 4-8-230. Records.

Permanent records for each patron or customer shall be maintained by the licensee or operator of the establishment. Before the tattooing operation begins, the patron or customer shall be required personally to enter, on a record form provided by the City for such establishment, the date, the person's name, address, age, serial number if a member of the Armed Forces and signature. Such records shall be maintained in the tattoo establishment and shall be available for examination by the Health Officer. Records shall be retained by the operator or licensee for a period of not less than two (2) years. In the event of a change of ownership or closing of the business, all such records shall be made available to the Health Officer. (Prior code 9-288)

Sec. 4-8-240. Infections.

No person, customer or patron having any skin infection, other disease of the skin or any communicable disease shall be tattooed. All infections resulting from the practice of tattooing which become known to the operator shall promptly be reported to the Health Officer by the person owning or operating the tattooing establishment, and the infected client shall be referred to a physician. (Prior code 9-289)

Sec. 4-8-250. Pigments, dyes.

All pigments, dyes, colors, etc., used in tattooing shall be sterile and free from bacteria, virus particles and noxious agents and substances, and the pigments, dyes and colors used for stock solutions for each customer or patron shall be placed in a single-service receptacle. Such receptacle and remaining solution shall be discarded after use on each customer or patron. (Prior code 9-290)

Sec. 4-8-260. Bandages and surgical dressings.

All bandages and surgical dressings used in connection with the tattooing of a person shall be sterile. (Prior code 9-291)

Sec. 4-8-270. Inspections.

The Health Officer may conduct periodic inspections of any tattooing establishment for the purpose of determining whether or not the establishment and the persons performing the art of tattooing therein are in compliance with all applicable health provisions contained within this Article and other laws. It shall be unlawful for any person or operator of a tattooing establishment willfully to prevent or restrain the Health Officer from entering any licensed establishment where tattooing is being performed for the purpose of inspecting the premises, after proper identification is presented to the operator. (Prior code 9-292)

Sec. 4-8-280. Rules and regulations.

In order to carry out the intent of this Article, the Health Officer may promulgate from time to time rules and regulations pertaining to the requirements of sanitation, cleanliness, adequacy of facilities, equipment and operation of a tattooing establishment consistent with this Article. (Prior code 9-293)

Sec. 4-8-290. Tattooing of minors.

It shall be unlawful for any person to tattoo any minor without prior written consent of the parent, guardian or other person having legal care or custody of such minor. (Prior code 9-294)

CHAPTER 5

Nuisances

Article 1 Nuisances Generally

- Sec. 5-1-10 Definitions
- Sec. 5-1-20 Common law nuisances
- Sec. 5-1-30 Accumulation to constitute nuisances
- Sec. 5-1-40 Violations of building and zoning regulations
- Sec. 5-1-50 Trash not to be thrown in street, vacant lot, etc.
- Sec. 5-1-60 Responsibility for trash or rubbish on premises
- Sec. 5-1-70 Removal of rubbish from business
- Sec. 5-1-80 Building materials to be removed from construction sites
- Sec. 5-1-90 Uncollected garbage deemed nuisance, failure to comply
- Sec. 5-1-100 Garbage vehicle regulations
- Sec. 5-1-110 Violations designated
- Sec. 5-1-120 Stagnant water, contaminated or impure well or cistern
- Sec. 5-1-130 Streets, streams and water supply
- Sec. 5-1-140 Sewer inlet
- Sec. 5-1-150 Discharge of noxious or hazardous liquids
- Sec. 5-1-160 Stale matter
- Sec. 5-1-170 Accumulation or storage of rubbish, weeds, etc.
- Sec. 5-1-180 Handbills, posters and placards
- Sec. 5-1-190 Transporting garbage or trash in open vehicles
- Sec. 5-1-200 Accumulation of excessive firewood
- Sec. 5-1-210 Snow and tree debris removal required
- Sec. 5-1-220 Dead animal removal
- Sec. 5-1-230 Exposure or conveyance of anything prejudicial to health
- Sec. 5-1-240 Creating smoke or odors
- Sec. 5-1-250 Offensive businesses
- Sec. 5-1-260 Junk
- Sec. 5-1-270 Parking vehicles, motorized equipment and machinery on residential lots (lawns)
- Sec. 5-1-280 Abandoned, wrecked and junked vehicles
- Sec. 5-1-290 Broken windows in vacant dwellings

Article 2 Abatement of Nuisances

- Sec. 5-2-10 Prohibition of nuisances
- Sec. 5-2-20 Ascertaining nuisances
- Sec. 5-2-30 Filing complaint
- Sec. 5-2-40 Responsibility of owner, occupant or agent
- Sec. 5-2-50 Right of entry
- Sec. 5-2-60 Costs and charges; lien against property
- Sec. 5-2-70 Notice of assessment
- Sec. 5-2-80 Certified assessment
- Sec. 5-2-90 Alternative procedure
- Sec. 5-2-100 Emergencies; summary abatement
- Sec. 5-2-110 Cumulative remedies
- Sec. 5-2-120 Concurrent remedies
- Sec. 5-2-130 Abatement; penalty

ARTICLE 1

Nuisances Generally

Sec. 5-1-10. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

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

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

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

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

Junk means any old, used or secondhand materials of any kind, including, without limitations, cloth, rags, clothing, furniture, refrigerators or freezers, used motor vehicles or the parts thereof or therefrom; machines, apparatuses and contrivances and parts thereof, which are no longer in use; any used building material, boards or other lumber; cement blocks, bricks or brickbats or other secondhand building material; any discarded machinery, tractors, trucks or automobiles; or any other article or thing commonly known and classified as *junk*.

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

Public nuisance means a substance, act, occupation, condition or use of property, which is of such nature and continues for such length of time as to:

- a. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- b. In any way render the public insecure in life or in the use of property.
- c. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.
- d. Offend the public decency.

Rubbish means inorganic refuse matter, such as tin cans, glass, paper, boxes, bottles, discarded building and construction materials, sweepings and other like materials.

Trash means any grass clippings, leaves, hay, straw, manure, shavings, excelsior, ashes, toppings, twigs, worthless matter or material and all manner of waste substances, other than garbage and rubbish, usually accumulating upon, in and around private premises.

Weed means an unsightly, useless, troublesome or injurious growing herbaceous plant, and includes all rank vegetable growth which exhales unpleasant and noxious odors and high and rank vegetable growth that may conceal filthy deposits. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-20. 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 Chapter. (Ord. 811 §1, 2009)

Sec. 5-1-30. Accumulation to constitute nuisances.

Whenever there exists 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 12 of this Code for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be a violation of this Article. (Ord. 811 §1, 2009)

Sec. 5-1-40. Violations of building and zoning regulations.

It is unlawful and constitutes a public nuisance for any person to maintain any property, building or any other structure in the City in a condition which is in violation of the building code or the Zoning Ordinance of the City. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-50. Trash not to be thrown in street, vacant lot, etc.

(a) No trash or rubbish of any kind or nature whatsoever or any other material shall be thrown or swept into any street, sidewalk, gutter, sewer intake, alley, vacant lot or other property.

(b) It is unlawful to deposit or cause to be deposited or cast into any street, alley or public place or upon any private property, without the consent of the owner or occupant thereof, any rubbish, trash, handbill, circular, paper, inflammable substance or filth. (Ord. 783, 2006)

Sec. 5-1-60. Responsibility for trash or rubbish on premises.

It is the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of trash, rubbish or materials contrary to the provisions of this Article, other than those ordinarily attendant upon the use for which such premises are legally intended. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-70. Removal of rubbish from business.

Discarded rubbish, including automobile parts, stoves, furniture, wool, hides, junkyard refuse and packing house and slaughterhouse refuse, shall be removed periodically from such respective establishments by the proprietor so that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed by the establishment creating such deposit. Any accumulation of rubbish that is highly explosive or flammable which might endanger life or property shall be removed to such places as approved by the Chief of Police. Such removal shall be handled by the establishment responsible therefor. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-80. Building materials to be removed from construction sites.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property. (Prior code 13-4)

Sec. 5-1-90. Uncollected garbage deemed nuisance, failure to comply.

Fermenting, putrefying, odiferous or unsightly garbage, rubbish or trash dumped in the open or uncollected at the proper time due to failure of any owner or occupant of property within the City limits to comply with the terms of this Article, or any other rule or regulation under this Article, is a nuisance and a violation of this Article. (Prior code 13-6)

Sec. 5-1-100. Garbage vehicle regulations.

All vehicles used for the collection and removal of garbage shall be fitted with a good and substantial watertight tank with a close-fitting top to prevent the escape or spilling of any of the contents therefrom. All vehicles used for the collection and removal of rubbish or trash shall be so equipped as to prevent the escape or spilling of any rubbish or trash. All such vehicles shall be thoroughly cleaned and disinfected at least twice each week. No vehicle shall remain for a longer time at any one (1) place, on public streets or alleys, than is necessary for loading all garbage, rubbish and trash. (Prior code 13-7)

Sec. 5-1-110. Violations designated.

It is unlawful and a violation of this Article for any person to:

- (1) Permit the accumulation on premises owned, controlled or occupied by such person of any garbage, rubbish or trash contrary to the provisions of this Article.
- (2) Throw, deposit or permit to be thrown or deposited upon any street, alley, public or private way or in any vacant lot any garbage, rubbish or trash.
- (3) Keep or maintain any garbage can or other receptacle for garbage in an unsanitary condition or in such manner as to be exposed to flies.

(4) Permit any garbage can or other receptacle for garbage, rubbish or trash to remain unscreened or uncovered so that the contents thereof may be dragged out by dogs or other animals, or so that the contents thereof may be blown out or scattered by wind.

(5) Haul or transport for hire over any street or alley within the City any garbage, rubbish or trash without first obtaining a permit to do so, or in any vehicle not inspected and approved by the City Manager. (Prior code 13-8)

Sec. 5-1-120. Stagnant water, contaminated or impure well or cistern.

(a) Ditches, sloughs and man-made water holding devices containing stagnant water, which may provide a breeding ground for mosquitoes and other insects, are deemed a nuisance.

(b) Excavations exceeding five (5) feet in depth, cisterns and wells or excavations used for storage of water are declared to be a public nuisance unless the same are adequately covered with a locked lid or other covering device weighing at least sixty (60) pounds or are securely fenced with a solid fence to a height of at least six (6) feet.

(c) Any well or cistern on any property within the limits of the City, whenever a chemical analysis or other proper test at the location of the same shows that the water of the well or cistern is probably contaminated, impure or unwholesome, is deemed a nuisance.

(d) Every owner, tenant, occupant, lessee or other person in possession of any premises or any part thereof, upon which there is located a well containing contaminated, impure or unwholesome water, must abandon the use of the same and cause the same to be filled with earth or such other material as may be designated by the City Manager or Chief of Police. (Ord. 783, 2006)

Sec. 5-1-130. Streets, streams and water supply.

(a) The throwing or depositing of 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 shall be deemed a nuisance.

(b) The throwing or depositing in the City of anything specified in Subsection (a) above, 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, shall be deemed a nuisance. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-140. Sewer inlet.

Any article or materials accumulated in any sewer, sewer line, inlet, system or privy vault that shall have a sewer connection, which causes or might cause such sewer line, sewer system, inlet or privy vault to become noxious or offensive to others or injurious to public health, are hereby declared to be nuisances. (Ord. 783, 2006)

Sec. 5-1-150. Discharge of noxious or hazardous liquids.

(a) The discharge out of or from any house or place of foul or noxious liquid or substance of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the City is hereby declared a nuisance.

(b) The discharge of any flammable or hazardous liquid or substance onto any lot, residence, building or other property in the City in such a manner as to constitute a hazard or danger to persons or property is also hereby declared a nuisance. (Ord. 783, 2006)

Sec. 5-1-160. Stale matter.

The accumulation of any stale, putrid or stinking fat or grease or other stale matter on any property in the City is hereby declared to be a nuisance. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-170. Accumulation or storage of rubbish, weeds, etc.

(a) Nuisance declared. It is unlawful and constitutes a nuisance for any person to pile, store or allow to accumulate any rubbish, trash, garbage, weeds, manure or animal feces on any lot or real estate within the City in such quantities which could harbor and conceal harmful vermin, rodents or insects, or which is unsafe, unhealthy or unsightly to persons or the public.

(b) Permitting to grow or remain declared nuisance. Every person being the owner, occupant, tenant or in control of any lot or parcel of land within the City, or person having a contractual relationship with the owner which allows him or her to list the property for sale, who permits or allows the growth, decay or presence of chico, sagebrush, greasewood, thistles, weeds or other waste vegetation in excess of eight (8) inches in height on any premises, or in the alleys, sidewalk and parking areas appurtenant to the property, is guilty of creating, continuing and suffering a nuisance to exist. Property owners, lessees and persons in possession of any property in the City shall be responsible for maintaining their property (and any adjacent property of the City which may be appurtenant to the rear, front and side of such property, including to the center of alleyways, front and side islands and other property to the curb line of the street) in compliance with this Section, including the trimming of trees, hedges and shrubbery in conformity with the provisions of Chapter 9, Article 3 of this Code. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-180. Handbills, posters and placards.

Any sign, handbill, poster, placard or painted or printed matter which is stuck, posted or pasted upon any public right-of-way, any public or private residence or other structure or any power pole, fence or live tree without the permission of the owner, agent or occupant of the residence, structure, power pole, fence, live tree or right-of-way shall be deemed a nuisance. Any permitted signs, handbills, posters, placard or painted or printed matter shall be removed within three (3) days after expiration of the advertised event by any person placing or responsible for placing the same. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-190. Transporting garbage or trash in open vehicles.

Transporting of garbage, manure, swill, trash, leaves, grass or tree limbs upon any street in this City in a vehicle which is not fitted with a substantially tightly enclosed cover thereon so as to prevent any

portion of such refuse to be scattered or thrown into such street is hereby declared to be a nuisance. (Ord. 783, 2006)

Sec. 5-1-200. Accumulation of excessive firewood.

Accumulation of an excessive amount of firewood or kindling at or upon a lot or residence in such a manner as to cause a fire hazard or unsightly annoyance to others is deemed a nuisance. Such firewood shall not be stored on public rights-of-way. (Ord. 783, 2006)

Sec. 5-1-210. Snow and tree debris removal required.

It is the duty of the owner, tenant or occupant of any lot, block or parcels of land, or any part thereof, situated within the City to clean the snow or tree debris off the sidewalk abutting thereon within twenty-four (24) hours after the fall of such snow or other tree debris. Such snow or tree debris accumulation is declared to be a nuisance; and whoever is owning, renting or occupying any such premises and fails or neglects to clean the snow or tree debris from the sidewalk is guilty of a violation of this Section. (Ord. 783, 2006)

Sec. 5-1-220. Dead animal removal.

The body of any animal which has died and which is undisposed of after twelve (12) hours after death is hereby declared to be a nuisance. It shall be the responsibility of every owner, lessee and/or person in possession of such property to promptly dispose of said animal. Any person placing said animal on a City right-of-way or other City property shall be considered to have violated this Section. (Ord. 783, 2006)

Sec. 5-1-230. Exposure or conveyance of anything prejudicial to health.

It is unlawful and constitutes a nuisance for any person to expose, convey, place or cause to be exposed, conveyed or placed in any street or public place any substance, animal or thing to the prejudice of the public health. (Ord. 783, 2006)

Sec. 5-1-240. Creating smoke or odors.

It is unlawful and constitutes a nuisance for any person to create smoke or odors from the burning of trash, leaves, weeds, refuse or other material, which creates an annoyance to others. (Ord. 783, 2006)

Sec. 5-1-250. Offensive businesses.

It shall be unlawful for any person to allow or suffer upon his or her premises or to conduct upon any premises or property within the City, or within one (1) mile beyond the outer limits of the City, any slaughterhouse or other place for slaughtering animals, or any offensive or unwholesome business or establishment which is detrimental to the public health, morals, safety or welfare; and the same is declared a nuisance. Offensive or unwholesome business or establishment means any business or establishment involving the provision of goods or services to others which creates, fosters or maintains any hazard to public health, morals, safety or welfare. (Ord. 783, 2006)

Sec. 5-1-260. Junk.

(a) The keeping, storage or collection of junk within the City in violation of this Article is a nuisance and is detrimental to the health, safety, convenience and general welfare of the citizens thereof, and is a violation of this Article.

(b) All places used or maintained as junkyards or dumping grounds, for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind; for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats, house trailers, appliances or machinery of any kind or of any parts thereof; or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places essentially interfere with the comfortable enjoyment of life or property by others, or are unsightly, are hereby declared to be nuisances.

(c) The keeping, storage or collection of junk shall not be deemed a nuisance when and if the same is kept, stored or collected in completely enclosed buildings. This Article shall not apply to any properly zoned premises where a licensed motor vehicle dealer or a farm implement dealer conducts his or her business. (Ord. 783, 2006)

Sec. 5-1-270. Parking vehicles, motorized equipment and machinery on residential lots (lawns).

(a) The parking of vehicles, motorcycles, motorized equipment and machinery upon front yard setbacks of residential properties or in public rights-of-way between street, curb and owner's property line contributes to the depreciation of property values, constitutes blight and is prohibited; the same is hereby deemed a nuisance. Nothing in this Section is intended to prohibit the parking of motor vehicles (which are defined to mean any self-propelled vehicles which are designed primarily for travel on the public highways and which are generally and commonly used to transport persons and property over the public highways) on paved or constructed driveways adjacent to residences.

(b) For the purpose of this Section, *constructed driveway* is defined to mean an off-street parking area built of asphalt, concrete, rock or gravel that occupies no more than forty percent (40%) of the front setback area. Driveways built of rock or gravel shall be not less than three (3) inches deep and have an outer border to contain the material.

(c) No vehicles shall be parked in such a manner as to obstruct motorists' view of street intersections or pose any other driver safety hazards, in accordance with the provisions of Section 12-17-70 (vision clearance) and the definition of vision clearance under Section 12-1-10 of this Code. (Ord. 783, 2006; Ord. 796 §A, 2008; Ord. 811 §1, 2009)

Sec. 5-1-280. Abandoned, wrecked and junked vehicles.

(a) Abandonment prohibited.

(1) No person shall abandon any vehicle within the City, and no person shall leave any vehicle at any place within the City for such times and under such circumstances as to cause the vehicle reasonably to appear to be abandoned.

(2) Whenever any police officer or the Code Enforcement Officer finds a vehicle unattended, standing upon any portion of a street or highway right-of-way within the City or left unattended for a

period of twenty-four (24) hours or more and presumed to be abandoned under the conditions prescribed by Section 42-4-1801, et seq., C.R.S., such officer shall require the vehicle to be removed or cause the vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the City. Vehicles removed from streets or highways and other property within the City and placed in storage, as provided in this Section, shall be disposed of in accordance with the provisions of such statute.

(3) In the event of abandonment of a vehicle on property within the City other than public rights of-way, the owner of the property shall notify the Police Department. The Police Department shall, after a period of seventy-two (72) hours, likewise cause the abandoned vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the City.

(b) Wrecked vehicles on street. No person shall leave any wrecked, discarded, junked or partially dismantled vehicle on any street or highway within the City.

(c) Expired motor vehicle certificate deemed violation. The keeping or storage of any motor vehicle not having thereon a valid and unexpired license plate (determined by examining such plates on the exterior of the vehicle) on private property by any person not specifically exempted under Subsection (d) below shall be prima facie evidence of a violation of this Article. Said vehicle is deemed to be "junk" and is declared to be a nuisance.

(d) Junked vehicles on private property.

(1) It is unlawful for any person who is the owner of any vehicle or the owner of any property, or any person who is in charge or in control of any property, whether as owner, tenant, occupant, lessee or otherwise, to permit or allow any junked, discarded or partially wrecked vehicle, or parts thereof, to remain on the property longer than ten (10) days; provided that this Section shall not apply with regard to a vehicle or parts of a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in an area zoned for vehicle repair or a vehicle in an appropriate storage place or depository maintained for impounded vehicles by the City.

(2) It is the duty of the Police Department and Code Enforcement Officer to require the owner or agent of the owner of any premises whereon is situated any partially dismantled, junked, abandoned, discarded or partially wrecked vehicle, or parts thereof, to remove the same within ten (10) days.

(3) For the purposes of this Section, the tenant, occupant or lessee shall be deemed agent of the owner of the premises.

(4) Upon the failure, neglect or refusal of any owner or agent of the owner so notified to properly dispose of the vehicle or parts thereof within the time limits set forth in Paragraph (2) above, the Police Department or Code Enforcement Officer is authorized and empowered to remove the same at the expense of the owner or agent of the owner, plus a fee which is on file in the office of the City Clerk for the administrative expenses of the City.

(5) In case the owner or agent of the owner of such property fails to pay such bill within thirty (30) days after the same has been rendered, the Police Department or Code Enforcement Officer shall report the same to the City Manager who shall cause assessment of the costs against the property in question in accordance with Article 2 of this Chapter.

(e) Inoperable vehicles. It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Section shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations. Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-1-290. Broken windows in vacant 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, his or her designated officer or the Code Enforcement Officer. (Ord. 811 §1, 2009)

ARTICLE 2

Abatement of Nuisances

Sec. 5-2-10. 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. 811 §1, 2009)

Sec. 5-2-20. Ascertaining nuisances.

Whenever the pursuit of any trade, business or the manufacturing or maintenance of any substance or condition of things is, upon investigation, considered by the City Manager or Code Enforcement Officer dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated. (Ord. 811 §1, 2009)

Sec. 5-2-30. Filing complaint.

Complaints of nuisances may be made to the City Manager, Chief of Police, a police officer, City Clerk, Mayor, City Councilors, Land Use Administrator or Code Enforcement Officer. Whenever possible, any complaint shall state the nature of the nuisance; the location, including street address; the name of the owner, agent or occupant of the building or lot, if known; and the name and address of the complainant. (Ord. 783, 2006)

Sec. 5-2-40. Responsibility of owner, occupant or agent.

(a) Where a nuisance exists upon private property and is the outgrowth of the usual, natural or necessary use of the property, the owner thereof or his or her agents are declared the author thereof; but where any nuisance arises from the unusual use to which such property may be put, or from any business conducted thereon, the occupant shall also be deemed the author thereof. Any person who, by himself or herself or through an agent, causes or creates the same shall be deemed the author of the nuisance.

(b) In the event a nuisance must be abated by the City, no provision of this Section should be construed to relieve any property owner from any of the provisions contained in this Chapter.

(c) The reasonable time for abatement shall not exceed fourteen (14) days, unless it appears from the facts and circumstances that compliance could not reasonably be made within fourteen (14) days or that a good faith attempt at compliance is being made.

(d) Any officer or employee of the City who is authorized under this Chapter to abate any nuisance specified in this Chapter has authority to engage the necessary assistance and incur the necessary expenses thereof. In any case where a nuisance is to be abated by the City, it is the duty of the authorized person to employ such assistance and adopt such means as may be reasonably necessary to effect abatement of the nuisance. It is also the duty of the City or any of its representatives to proceed in all abatement cases with due care and without any unnecessary destruction of property (Ord. 783, 2006)

Sec. 5-2-50. Right of entry.

(a) Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the City Manager, Land Use Administrator, Code Enforcement Officer, Chief of Police or police officer has reasonable cause to believe that there exists in any building, or upon any premises, any condition which constitutes a nuisance under this Chapter, the City Manager, Land Use Administrator, Code Enforcement Officer, Chief of Police or police officer may enter the building or premises at all reasonable times to inspect the same or to perform any duty imposed on any of them; provided that, if the building or premises are occupied, the person shall first present proper credentials and demand entry. If the building or premises are unoccupied, he or she shall first make a reasonable effort to locate the owner and/or occupant or other person having charge or control of the building or premises and, upon locating the owner, occupant or other person, shall present proper credentials and demand entry.

(b) If entry is refused, the person shall give the owner and/or occupant (or, if the owner and/or occupant cannot be located after a reasonable effort, shall leave at the building or premises) twenty-four (24) hours' written notice of intention to inspect. The notice given to the owner and/or occupant or left on the premises, as designated in this Section, shall state that the property owner has the right to refuse entry and that, in the event entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge or judge of any other court having jurisdiction, and absence of refusal shall be deemed consent to entry.

(c) In the case of any nuisance involving a serious threat to public safety or order, after the expiration of said twenty-four-hour period, the City Manager, City Attorney, Chief of Police, Land Use Administrator or any of them may appear before the Municipal Judge and, upon showing of probable cause, obtain a search warrant entitling him or her to enter the building or upon the premises. Upon obtaining the search warrant (in the case of an unoccupied building or premises) such persons may enter into the building or upon the premises using such reasonable force as may be necessary to gain entry therein. Nothing contained in this Section is intended to negate the authority of the officials described in this Section to enter any portion of any property which is not posted or otherwise protected by the 4th Amendment of the United States Constitution or for which entry has not been allowed in order to enforce the provisions of this Chapter.

(d) It is unlawful for any owner and/or occupant of the building or premises to resist reasonable force used by the City Manager, Chief of Police or Code Enforcement Officer acting pursuant to this Article. (Ord. 783, 2006; Ord. 811 §1, 2009)

Sec. 5-2-60. Costs and charges; lien against property.

(a) The person responsible for any nuisance within the City is liable for and shall pay and bear all costs and expenses of the abatement of such nuisance, which costs and expenses may be collected by the City in any action at law, collected in connection with an action to abate a nuisance or assessed against the property as provided in this Article.

(b) Except for nuisances requiring summary abatement, a notice shall be sent to or served upon the person deemed responsible for the nuisance and shall state that, if the nuisance is not abated within the time stated in the notice, the cost of such abatement may be assessed as a lien against the property (such notice describing the same) pursuant to the terms of this Article, together with an additional fee as set by City resolution for inspection and incidental costs and an additional ten-percent assessment for costs of collection, and collected in the same manner as real estate taxes against the property. The notice may be mailed, posted on the property and/or served by any officer directed or deputized to mail, post or serve the same. In causing notice to be served, the Mayor, Chief of Police or City Manager may authorize City officials, inspectors or any other appropriate City employee to issue the notice of abatement.

(c) If, after the expiration of the period of time provided for in the notice, or as extended, the nuisance is not abated, then the City may abate the nuisance and, if costs or expenses incurred by or on behalf of the City in the abatement or in connection with the abatement of the nuisance are not otherwise collected, the City Manager may thereafter certify to the City Clerk the legal description of the property upon which the work was performed, together with the name of the owner thereof as shown by the tax rolls of the County, together with a statement of the work performed, the date of performance and the costs thereof. (Ord. 783, 2006)

Sec. 5-2-70. Notice of assessment.

Upon receipt of a statement from the City Manager, the City Clerk shall mail a notice to the owner of the premises as shown by the tax roll, at the address shown upon the tax rolls, by first-class mail, postage prepaid, notifying the owner that work has been performed pursuant to this Article, stating the date of performance and the nature of the work and demanding payment of the costs thereof, as certified by the City Manager, together with the inspection/incidental costs fee and costs of collection fee in connection therewith. The notice shall state that if the amount is not paid within thirty (30) days of mailing the notice, it shall become an assessment on and a lien against the property of the owner (such notice describing the same) and will be certified as an assessment against the property together with the costs described in this Section, and the assessment will be collected in the same manner as a real estate tax upon the property. (Ord. 783, 2006)

Sec. 5-2-80. Certified assessment.

(a) If the City Clerk does not receive payment within the period of thirty (30) days following the mailing of the notice, the City Clerk shall certify to the County Treasurer the whole cost of the work and costs described in this Section in connection therewith upon the lots and tracts of land upon which the nuisance was abated.

(b) Each assessment shall be a lien against each lot or tract of land until paid and shall have priority over other liens, except general taxes and prior special assessments. (Ord. 783, 2006)

Sec. 5-2-90. Alternative procedure.

(a) When any person has responsibility for a nuisance, and the nuisance exists or is found and the responsible person fails to abate the same after the giving of the notice as provided for in this Article, or as extended, then the City Attorney may, as an alternative procedure, institute proceedings in the Municipal Court or in a court of competent jurisdiction to obtain a judicial determination that the nuisance exists, to abate the nuisance and to enjoin the same, and for such other and further relief as may seem proper or necessary, including but not limited to collections of expenses of abatement.

(b) Upon a judicial determination that a nuisance exists, the City Manager may be authorized to abate the nuisance or cause the same to be abated, employing such forces and persons as may be necessary to abate the same, including the employees of the City, or by contract or otherwise. The Chief of Police and all other City officials and employees are authorized and directed to render such assistance as may be required for the abatement of the nuisance and in connection with the enforcement thereof. (Ord. 783, 2006)

Sec. 5-2-100. Emergencies; summary abatement.

(a) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the City Manager, Fire Chief, Chief of Police, authorized police officer, Code Enforcement Officer or Land Use Administrator, upon a presentation of proper credentials or identification (in the case of an occupied building or premises), may enter into any building or upon any premises within the jurisdiction of the City. In an emergency situation, such person may use such reasonable force as may be necessary to gain entry into the building or upon the premises.

(b) For the purposes of this Section, an emergency situation includes, but is not limited to, any situation where there is imminent danger of loss of life, limb and/or property or immediate danger to the public health or safety and which cannot await abatement by other means available under this Chapter.

(c) It is unlawful for any owner and/or occupant of the building or premises to resist reasonable force used by any authorized official acting pursuant to this Article.

(d) Each and every nuisance mentioned, declared or defined by any ordinance of the City is prohibited and, depending upon the exigency of circumstances, may be subject to summary abatement. The Mayor, City Manager or Chief of Police is authorized, in his or her discretion, to cause the same to be summarily abated in such manner as he or she may direct. Assessment of costs and charges of summary abatement shall be as provided in Sections 5-1-80 through 5-1-100 of this Chapter.

(e) Upon authorization by the Mayor, City Manager or Chief of Police, if any nuisance found to exist causes such imminent danger to life, limb, property or health as to require immediate abatement, any such nuisance may be summarily abated by action of a police officer, the City Manager, the Land Use Administrator, or the Code Enforcement Officer as may be directed by the Chief of Police, Mayor or City Manager. (Ord. 783, 2006)

Sec. 5-2-110. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative. The taking of any action under this Article, including charge or conviction of a violation of this Article in the Municipal

Court, shall not preclude or prevent the taking of other action under the provisions of this Article to abate or enjoin any nuisance found to exist. (Ord. 783, 2006)

Sec. 5-2-120. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action and, when applicable, the abatement provisions of this Article 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 Article 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. 783, 2006)

Sec. 5-2-130. Abatement; penalty.

Any person who is responsible for creating or maintaining any nuisance as provided for in this Article may, in addition to the civil penalties and costs provided herein, be punished in accordance with the provisions of Section 1-4-20 of this Code. Every person violating or contributing in any way to the violation of any provision of this Chapter shall be deemed guilty of a separate offense for each day during which such violation continues and may be punished for each such violation as provided in this Section. (Ord. 783, 2006; Ord. 811 §1, 2009)

CHAPTER 6

Animal Regulations

Article 1 Animals in General

- Sec. 6-1-10 Keeping for commercial purposes prohibited
- Sec. 6-1-20 Keeping of pets; keeping certain animals for exhibitions and celebrations
- Sec. 6-1-30 Running at large of rabbits, fowl

Article 2 Dogs

- Sec. 6-2-10 Dangerous dog prohibited
- Sec. 6-2-20 Running at large prohibited
- Sec. 6-2-30 License required; fees
- Sec. 6-2-40 Licenses and tags
- Sec. 6-2-50 Vaccination required
- Sec. 6-2-60 Vaccination by authorized persons
- Sec. 6-2-70 Rabies vaccination certificate and record
- Sec. 6-2-80 Tag, inspection
- Sec. 6-2-90 Period of validity
- Sec. 6-2-100 Possession restricted; lost tags

Article 3 Impoundment

- Sec. 6-3-10 Impoundment generally
- Sec. 6-3-20 City Manager duties
- Sec. 6-3-30 Notice to owner
- Sec. 6-3-40 Redemption and fines
- Sec. 6-3-50 Disposition of unclaimed or infected dogs

Article 4 Rabies Control

- Sec. 6-4-10 Quarantine
- Sec. 6-4-20 Vaccination and licensing of imported dogs

ARTICLE 1

Animals in General

Sec. 6-1-10. Keeping for commercial purposes prohibited.

The keeping, owning, harboring or maintaining of any corral, barn, stable, pen, pigsty, rabbitry, enclosure or any other place within the City for commercial purposes or raising food, in which are kept any swine, goats, cattle, sheep or rabbits for food or commercial purposes, is a nuisance, is unlawful and is prohibited. (Prior code 3-1; Ord. 811 §1, 2009)

Sec. 6-1-20. Keeping of pets; keeping certain animals for exhibitions and celebrations.

Nothing in this Article shall prohibit the raising or keeping of pets, or the keeping of any cattle, horses, sheep or other animals for exhibition or public celebration for a period of not over five (5) days. (Prior code 3-2)

Sec. 6-1-30. Running at large of rabbits, fowl.

It is unlawful for any person owning a home or having control thereof to permit any rabbit or any fowl of any kind to run at large within the corporate limits of the City. (Prior code 3-3)

ARTICLE 2

Dogs

Sec. 6-2-10. Dangerous dog prohibited.

(a) Dangerous dogs are a serious threat to the safety and welfare of citizens of the City because of the number and serious nature of attacks by such dogs.

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

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

Dangerous dog means any dog that:

- a. Has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal;
- b. Has demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict injury upon or cause the death of any person or domestic animal; or
- c. Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

Dog means any domesticated animal related to the fox, wolf, coyote or jackal.

Domestic animal means any dog, cat, other domesticated pet or livestock.

Owner or *owns* means any person, firm, corporation or organization owning, possessing, harboring, keeping, having financial or property interest in or having control or custody of a domestic animal, including a dangerous dog.

Serious bodily injury has the same meaning as such term is defined in Section 18-1-901(3)(p), C.R.S.

(c) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in or has custody or control over a dangerous dog.

(d) Any person convicted of a violation of this Section shall be subject to the general penalty provided in Section 1-4-20 of this Code. In addition, the Court may order any owner of a dangerous dog who has been convicted of a violation of this Section to:

(1) Confine such dangerous dog in a building or enclosure designed to be escape-proof and, whenever such dog is outside of such building or enclosure, keep the dog under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, such dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

(2) In addition to any other penalty set forth in this Subsection, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the Municipal Judge or a jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury or death to a person or domestic animal, the Municipal Court, pursuant to applicable provisions of Title 16, C.R.S., governing restitution, may order the defendant to make restitution in accordance with said provisions.

(3) In addition to the penalties set forth in this Subsection, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the Municipal Judge or a jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal, or for a second or subsequent violation of Subsection (c) above or resulting in a conviction, deferred judgment or deferred prosecution involving the same dog of the same owner, the Municipal Court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this Section, the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian.

(e) An affirmative defense to the violation of this Section shall be:

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

(2) That, at the time of the attack by the dangerous dog which caused injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;

(3) That, at the time of the attack by the dangerous dog which caused injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner;

(4) That, at the time of the attack by the dangerous dog which caused injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property and the attack began, but did not necessarily end, upon such property; or

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

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

(g) If any dog is found in violation of this Section, it shall be taken up and impounded; provided, however, that if any dangerous, fierce or vicious dog found at large cannot be safely taken up and impounded, such dog may be forthwith slain by the police officer. (Prior code 3-31; Ord. 787 §§1, 2, 2006; Ord. 811 §1, 2009)

Sec. 6-2-20. Running at large prohibited.

No animal owner shall fail to exercise proper care and control of his or her animals to prevent them from becoming a public nuisance. It shall be unlawful for an owner to allow an animal to injure or destroy any real or personal property of any description belonging to another. No person shall permit any domestic or wild animal of which he or she is the owner, caretaker or custodian to run at large within the City. Any such animal shall be deemed to be running at large when it shall be off the premises owned or rented by its owner and not under the immediate control of the owner, agent or employee of the owner. Any such animal may be impounded by the City. No domestic animal shall be permitted in any public place unless under the immediate control of its owner. Public places include, but are not limited to, public property, common areas of private property, parking lots, churches, cemeteries, parks, golf courses and schools. Within one (1) hour after an animal escapes from either the owner or the person having custody of the animal, the owner or custodian of the animal shall report the escape of said animal to the Police Department or the Animal Control Officer. No person shall appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement; nor shall any person fail to remove any excrement deposited by such animal. (Prior code 3-32)

Sec. 6-2-30. License required; fees.

(a) Every person owning or harboring any dog within the City shall have it registered and licensed, shall supply all information requested by the City Clerk concerning the dog and shall pay the City Clerk, at the time of registration and licensing of the dog, a license fee which is on file in the City Clerk's office for the calendar year in which the license is issued.

(b) The penalty for the first offense of failing to register and license any dog within the City is twenty-five dollars (\$25.00). The penalty for the second offense of failing to register and license any dog within the City, within two (2) years following the first offense, is fifty dollars (\$50.00); and the penalty

for all subsequent offenses of failing to register and license any dog within the City, within two (2) years following the second offense, is one hundred dollars (\$100.00). (Prior code 3-46; Ord. 817, 2009)

Sec. 6-2-40. Licenses and tags.

(a) The City Clerk shall provide for the issuance of a license to the owner or harborer of each dog licensed under the provisions of this Article, containing the following information:

- (1) The name and address of the owner or harborer of the dog.
- (2) The year and series number of the dog tag.
- (3) The date of vaccination against rabies and date of license.
- (4) The breed, age, color and sex of the vaccinated dog.

(b) The tag shall be made of durable material suitable to be attached to the collar or harness of the vaccinated dog. The tag shall state the year for which it is issued and the series number of the license and tag. The tag shall be prepared and distributed by the City Clerk and shall be of a different color or shape each year. (Prior code 3-47)

Sec. 6-2-50. Vaccination required.

(a) It shall be the duty of every person who owns or harbors any dog in the City to:

- (1) Have such dog vaccinated by a regularly licensed veterinarian of the State;
- (2) Obtain a certificate from the veterinarian, setting out the fact of the vaccination; and
- (3) Obtain from the City Clerk a license for each dog.

(b) The vaccination and licensing shall be performed during the months of January and February of each calendar year. Any person who acquires or harbors any dog between March 1 and December 31 of any calendar year, immediately following such acquisition or upon such harboring, shall have the dog vaccinated against rabies and licensed for the remaining portion of that calendar year. (Prior code 3-48)

Sec. 6-2-60. Vaccination by authorized persons.

The vaccination of dogs under this Article may be performed by any licensed veterinarian of the State. Licenses for dogs shall be issued by the City Clerk. (Prior code 3-49)

Sec. 6-2-70. Rabies vaccination certificate and record.

Every veterinarian performing vaccinations shall furnish the owner of any dog vaccinated a certificate of the vaccination and shall retain a record in his or her office. No license shall be issued for any dog without presenting a certificate of vaccination and payment of license fee. (Prior code 3-50)

Sec. 6-2-80. Tag, inspection.

(a) Every owner or harbinger of a dog shall attach the tag evidencing the licensing and vaccination with anti-rabies vaccine to the collar or harness of the inoculated and licensed dog. The collar or harness shall be worn by the dog at all times.

(b) The license shall be retained by the owner or harbinger of the vaccinated and licensed dog for inspection by any member of the Police Department at any time. (Prior code 3-51)

Sec. 6-2-90. Period of validity.

The vaccination and licensing required by this Article shall be valid for each calendar year in which the same is had, and for January and February of the following year. (Prior code 3-52)

Sec. 6-2-100. Possession restricted; lost tags.

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

(b) Lost tags shall be replaced by the City Clerk upon payment of a fee for each replacement, which fee is on file in the City Clerk's office. (Prior code 3-53)

ARTICLE 3

Impoundment

Sec. 6-3-10. Impoundment generally.

It shall be the duty of every police officer or animal control officer to apprehend, take into custody and impound, either with or without complaint, any stray dog, unlicensed dog, dog not under reasonable control of the owner or any dog found running at large contrary to the provisions of this Article. Such dog shall be confined and kept in the City animal shelter or other suitable place. The Animal Shelter Director or other designated official, upon receiving any dog, shall make a complete registry of the breed, color and sex of the dog and whether it is licensed. If it is licensed, he or she shall enter the name and address of the owner and the number of the license tag. (Prior code 3-66)

Sec. 6-3-20. City Manager duties.

The City Manager shall provide a place, either within or without the City limits, where dogs impounded under the provisions of this Article may be confined and kept, as provided in this Article, and shall appoint some person to have general charge of such animals. (Prior code 3-67)

Sec. 6-3-30. Notice to owner.

Not later than two (2) days after the impounding of any dog, the owner shall be notified or, if the owner of the dog is unknown, written notice shall be posted for three (3) days at two (2) or more conspicuous places in the City, describing the dog and the place and time of taking. (Prior code 3-68)

Sec. 6-3-40. Redemption and fines.

The owner of any dog so impounded may reclaim such dog upon proof of vaccination of the dog against rabies and payment of any unpaid license fees, all costs, fees and charges incurred by

the City for impoundment and maintenance of the dog, and any penalty assessment to the City; provided, however, that the owner or person in charge of any dog running at large in violation of Section 6-2-20 of this Chapter shall be subject to the following fine and penalties, regardless of whether any dog has been impounded: The penalty for the first offense of allowing any dog to run at large is twenty-five dollars (\$25.00). The penalty for the second offense of allowing any dog to run at large within two (2) years following the first offense is fifty dollars (\$50.00); and the penalty for all subsequent offenses of allowing any dog to run at large within two (2) years following the second offense is one hundred dollars (\$100.00). (Prior code 3-69)

Sec. 6-3-50. Disposition of unclaimed or infected dogs.

It is the duty of the Animal Shelter Director to keep all licensed dogs impounded pursuant to this Article for a period of six (6) days. If, at the expiration of four (4) days from the date of notice to the owner or the posting of such notice, as designated in Section 6-3-30 above, the dog has not been redeemed, it may be destroyed. Any unlicensed dog will be impounded and kept for a period of three (3) days, after which time it will be disposed of or destroyed. Any dog which appears to be suffering from or affected with mange or other infectious or dangerous disease shall not be released but may be destroyed. (Prior code 3-70)

ARTICLE 4

Rabies Control

Sec. 6-4-10. Quarantine.

(a) Any animal which is known to have bitten or injured any person causing an abrasion of the skin, or an animal which, in the opinion of a member of the Police Department or of any licensed veterinarian of the State, appears to be inflicted with rabies shall be closely confined by its owner in accordance with the directions of a member of the Police Department for a period of not fewer than fourteen (14) days.

(b) It is unlawful for any person knowing or suspecting an animal of having rabies to allow the animal to be taken off his or her premises or beyond the limits of the City without the written permission of the Animal Control Officer. Every owner or other person, upon ascertaining a dog is rabid, shall immediately notify the Animal Control Officer or a police officer who shall either remove the dog to the animal shelter or summarily destroy it.

(c) If the owner of the animal referred to in this Section cannot be determined or located, then a member of the Police Department shall otherwise confine the animal for a period of not fewer than fourteen (14) days. If the owner of the animal is not determined or located or the animal claimed within fourteen (14) days, the Chief of Police may order the animal destroyed. All costs incurred for the confinement of an animal under this Section shall be paid by the owner of the animal. If the animal is determined to be suffering from rabies, it shall be destroyed pursuant to state law. (Prior code 3-91)

Sec. 6-4-20. Vaccination and licensing of imported dogs.

(a) All animals which are brought into the City shall be in compliance with the laws and rules and regulations of the State regarding the handling of the animals. All dogs shall have been vaccinated not more than twelve (12) months prior to importation. The metal tag denoting vaccination shall be firmly affixed to the collar or harness of the dog and shall be evidence of compliance with this Article.

(b) If the imported dog remains in the City more than thirty (30) days, the dog shall be licensed in accordance with the provisions of Article 2 of this Chapter. A certificate of vaccination issued by a licensed veterinarian to the owner or harbinger of a dog within the current year by any municipality, county or state shall be exchanged for a current license tag of the City, and a transfer fee which is on file in the City Clerk's office shall be imposed. (Prior code 3-92)

CHAPTER 7

Vehicles and Traffic

Article 1 Model Traffic Code

- Sec. 7-1-10 Adoption
- Sec. 7-1-20 Copy on file
- Sec. 7-1-30 Amendments
- Sec. 7-1-40 Application
- Sec. 7-1-50 Interpretation
- Sec. 7-1-60 Violations

ARTICLE 1

Model Traffic Code

Sec. 7-1-10. Adoption.

Pursuant to Title 31, Article 16, Parts 1 and 2, C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2009 edition of the *Model Traffic Code for Colorado*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the Nation. (Prior code 16-26; Ord. 811 §1, 2009)

Sec. 7-1-20. Copy on file.

Three (3) copies of the Model Traffic Code adopted herein is filed in the office of the City Clerk and may be inspected during regular business hours. The 2009 edition of the Model Traffic Code is adopted as if set out at length. (Prior code 16-26; Ord. 811 §1, 2009)

Sec. 7-1-30. Amendments.

The adopted Model Traffic Code adopted herein is subject to the following deletions, additions and modifications:

(1) Section 109 is amended by adding the following Subsection:

"109. Motorized bicycles, animals, skis, skates, toy vehicles and all-terrain vehicles on highways.

"14. Off Highway Vehicles.

"(a) 'Off Highway Vehicle' means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highway, and which is generally and commonly used to transport persons for recreational purposes. 'Off Highway Vehicle' does not include the following:

"1) Vehicles designed and used primarily for travel on, over, or in the water;

"2) Snowmobiles;

"3) Military vehicles;

"4) Golf carts;

"5) Vehicles designed and used to carry disabled persons;

"6) Vehicles designed and used specifically for agricultural, logging or mining purposes; or

"7) Vehicles registered pursuant to Article 3 of Title 42, C.R.S.

"(b) No person shall use, drive, operate, or be a passenger on any "Off Highway Vehicle" (OHV) upon any street, alley, right-of-way or public property within the City of Monte Vista except in accordance with the provisions of this Section 109 (13).

"(c) City employees are authorized to use, drive, operate and be a passenger upon OHV in performance of specific duties as authorized by the City Manager, the public works supervisor, parks and recreation supervisor or Police Chief of the City and concerning snow removal, trash collections, maintenance, traffic control and special events; provided further that such vehicles shall only be allowed to operate on U.S. and Colorado State highways within the City in accordance with the provisions of C.R.S. 33-14.5-108.

"(d) Nothing herein provided shall prevent the transport of such vehicles upon City streets, alleys, rights-of-way, or property when such vehicles are being utilized in a City-recognized function such as parade or special event under the supervision and as authorized by the Police Chief."

(2) Section 239 is repealed and reenacted to read as follows:

"239. Misuse of Mobile Communication Devices – definitions.

"(1) As used in this section, unless the context otherwise requires:

"(a) 'Emergency' means a situation in which a person:

"(I) Has reason to fear for such person's life or safety or believes that a criminal act may be perpetrated against such person or another person, requiring the use of a wireless telephone while the car is moving; or

"(II) Reports a fire, a traffic accident in which one or more injuries are apparent, a serious road hazard, a medical or hazardous materials emergency, or a person who is driving in a reckless, careless, or otherwise unsafe manner.

"(b) 'Operating a motor vehicle' means driving a motor vehicle on a public highway, but 'operating a motor vehicle' shall not mean maintaining the instruments of control while the motor vehicle is at rest in a shoulder lane or lawfully parked.

"(c) 'Use' means talking on or listening to a wireless telephone or engaging the wireless telephone for text messaging or other similar forms of manual data entry or transmission.

"(d) 'Wireless telephone' means a telephone that operates without a physical, wire line connection to the provider's equipment. The term includes, without limitation, cellular and mobile telephones.

"(2) A person under eighteen years of age shall not use a wireless telephone while operating a motor vehicle.

"(3) A person eighteen years of age or older shall not use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission while operating a motor vehicle.

"(4) Subsection (2) or (3) of this section shall not apply to a person who is using the wireless telephone:

"(a) To contact a public safety entity; or

"(b) During an emergency.

"(5) (a) A person who operates a motor vehicle in violation of subsection (2) or (3) of this section commits a class A traffic infraction as defined in section 42-4-1701(3), and the court or the department of revenue shall assess a fine of fifty dollars.

"(b) A second or subsequent violation of subsection (2) or (3) of this section shall be a class A traffic infraction as defined in section 42-4-1701(3), and the court shall assess a fine of one hundred dollars.

"(6) (a) An operator of a motor vehicle shall not be cited for a violation of subsection (2) of this section unless the operator was under eighteen years of age and a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission.

"(7) The provisions of this section shall not be construed to authorize the seizure and forfeiture of a wireless telephone, unless otherwise provided by law.

"(8) This section does not restrict operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission."

(Prior code 16-29; Ord. 806, 2008; Ord. 811 §1, 2009; Ord. 818, 2010)

Sec. 7-1-40. Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park and every other public way, place or parking area, either within or outside the corporate limits of the City, the use of which the City has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413 and Part 16 of the adopted Model Traffic Code respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout the City. (Prior code 16-27; Ord. 811 §1, 2009)

Sec. 7-1-50. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and the adopted Model Traffic 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. (Prior code 16-30; Ord. 811 §1, 2009)

Sec. 7-1-60. Violations.

(a) It is unlawful for any person to violate any of the provisions of this Article of this Chapter for which no specific penalty has been provided or for which the sole penalty provided is a fine, which violations are hereby deemed traffic infractions. All provisions of the Model Traffic Code (referenced in Section 7-1-10 above and as the same may be from time to time republished) which have been deemed "traffic infractions" in identical substantive provisions of Title 42, C.R.S., are hereby deemed *traffic infractions* under this Chapter and are thereby "decriminalized." (Reference is made to the "common code" appendix to Title 42, C.R.S., published by Bradford Publishing Co., 1741 Wazee Street, Denver, Colorado 80202 [and as the same may be from time to time amended] for classification and compilation of such traffic infractions.) A traffic infraction shall be a civil matter for which punishment by imprisonment shall not be available, and for which a penalty assessment notice shall be issued. Every person who is convicted of a traffic infraction is subject to a penalty of at least ten dollars (\$10.00), but not more than one hundred fifty dollars (\$150.00) for a first offense within any twenty-four-month period, exclusive of any court costs and surcharges.

(b) For any violation of any provision of this Article which is a traffic infraction, no trial by jury shall be available, no arrest warrant shall be issued for failure to appear or to pay, no privilege against self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such a violation shall otherwise be in conformity with those generally applicable to civil matters.

(c) For any violation of any provision of this Article which is a traffic infraction, the Municipal Court may enter a judgment of liability by default against the defendant for failure to appear or to pay, and may assess such penalty, together with such court costs and surcharges, as are established by law. The Municipal Court may establish, by written order, rules and regulations for the administration of any violation of this Article which is a traffic infraction, including but not limited to schedules establishing the amount of penalties payable without a court appearance. The Municipal Court will utilize Colorado State procedures for any penalty assessment notice which constitutes a traffic infraction. Any penalty assessment notice which is paid within twenty (20) days of issuance of said notice shall result in the following reduction in points:

- (1) A four-point or three-point violation will be reduced to a two-point violation.
- (2) A two-point violation will be reduced to a one-point violation.

(d) It is unlawful for any person to violate any of the following provisions of this Chapter, which violations are hereby deemed not to be traffic infractions. Every person convicted of a violation of the following provisions of this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), exclusive of any court costs and surcharges, or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment:

- (1) Section 107 of the Model Traffic Code, Obedience to police officers.
- (2) Section 1101 of the Model Traffic Code, where the speed as driven is twenty (20) miles per hour or more over the lawful speed.
- (3) Section 1103 of the Model Traffic Code, Minimum speed regulation.

- (4) Section 1105 of the Model Traffic Code, Speed contest.
- (5) Section 1401 of the Model Traffic Code, Reckless driving.
- (6) Section 1402 of the Model Traffic code, Careless driving.
- (7) Section 1409 of the Model Traffic Code, No insurance.
- (8) Section 1413 of the Model Traffic Code, Eluding or attempting to elude a police officer.
- (9) Section 1903 of the Model Traffic Code, Stopping for school buses.
- (10) Any injury accident.
- (11) Any single offense over four (4) points.
- (12) Noninjury accidents where estimated damage exceeds two thousand dollars (\$2,000.00).
(Prior code 16-28; Ord. 811 §1, 2009)

CHAPTER 8

General Offenses

Article 1 General Provisions

- Sec. 8-1-10 Definitions
- Sec. 8-1-20 Intent
- Sec. 8-1-30 Scope and application
- Sec. 8-1-40 Affirmative defenses
- Sec. 8-1-50 Limitation of actions
- Sec. 8-1-60 Penalty for violation generally

Article 2 Governmental Operations

- Sec. 8-2-10 Resisting arrest
- Sec. 8-2-20 Obstructing a peace officer, firefighter, emergency medical service provider, rescue specialist or volunteer
- Sec. 8-2-30 Obstructing government operations
- Sec. 8-2-40 Disobeying peace officer, firefighter, emergency medical service provider or rescue specialists
- Sec. 8-2-50 Refusing to aid peace officer
- Sec. 8-2-60 False reporting to authorities
- Sec. 8-2-70 Impersonating a public servant
- Sec. 8-2-80 Duty to report crime; liability for disclosure
- Sec. 8-2-90 Compounding
- Sec. 8-2-100 Accessory to offense
- Sec. 8-2-110 Attempt
- Sec. 8-2-120 Complicity
- Sec. 8-2-130 Conspiracy
- Sec. 8-2-140 Refusal to permit inspections

Article 3 Obstructing Justice

- Sec. 8-3-10 Escape from custody
- Sec. 8-3-20 Escape from jail
- Sec. 8-3-30 Aiding escape
- Sec. 8-3-40 Furnishing certain items to prisoners

Article 4 Offenses Against Property

- Division 1 Generally*
- Sec. 8-4-10 Posting notices or advertisements to utility poles
- Sec. 8-4-20 Trespassing
- Sec. 8-4-30 Shoplifting
- Sec. 8-4-40 Price switching
- Sec. 8-4-50 Theft
- Sec. 8-4-60 Procuring food, accommodations or fuel with intent to defraud
- Sec. 8-4-70 Theft of rental property
- Sec. 8-4-80 Theft by receiving
- Division 2 Private Property*
- Sec. 8-4-110 Injury to property prohibited
- Sec. 8-4-120 Damage to or removal of signs
- Sec. 8-4-130 Defacing property
- Sec. 8-4-140 Defacing posted notice
- Sec. 8-4-150 Criminal tampering
- Sec. 8-4-160 Tampering with cable systems

<i>Division 3</i>	<i>Public Property</i>
Sec. 8-4-210	Unlawful conduct
Sec. 8-4-220	Trespass or interference in public buildings
Sec. 8-4-230	Curfew in parks, public lots and recreational areas
Sec. 8-4-240	Damaging or destroying library property
Sec. 8-4-250	Failure to return library property
Sec. 8-4-260	Removal of library property
Sec. 8-4-270	Littering
Sec. 8-4-280	Desecration of venerated objects

Article 5 Offenses Against the Person

Sec. 8-5-10	Assault
Sec. 8-5-20	Menacing without deadly weapon
Sec. 8-5-30	Reckless endangerment

Article 6 Offenses Against Public Decency

Sec. 8-6-10	Public indecency
Sec. 8-6-20	Prostitution

Article 7 Offenses Against Public Peace

Sec. 8-7-10	Disorderly conduct
Sec. 8-7-20	Harassment
Sec. 8-7-30	Interference with educational institutions
Sec. 8-7-40	Disrupting lawful assembly
Sec. 8-7-50	Riots
Sec. 8-7-60	Disobedience of public safety orders; exceptions
Sec. 8-7-70	Obstructing highway or other passageway
Sec. 8-7-80	Hindering transportation
Sec. 8-7-90	Throwing stones or missiles
Sec. 8-7-100	Loud and obnoxious noises

Article 8 Offenses by or Against Minors

Sec. 8-8-10	Curfew
Sec. 8-8-20	Loitering
Sec. 8-8-30	Furnishing tobacco products to minors
Sec. 8-8-40	Possession and smoking of tobacco products by minors prohibited
Sec. 8-8-50	Use or possession of tobacco products on school property prohibited

Article 9 Alcoholic Beverages

Sec. 8-9-10	Definitions
Sec. 8-9-20	Alcohol-related violations
Sec. 8-9-30	Illegal possession or consumption of alcoholic beverages by an underage person
Sec. 8-9-40	Sales near schools
Sec. 8-9-50	Open container

Article 10 Controlled Substances

Sec. 8-10-10	Definitions
Sec. 8-10-20	Offenses relating to marijuana
Sec. 8-10-30	Possession of drug paraphernalia
Sec. 8-10-40	Determination and consideration of drug paraphernalia
Sec. 8-10-50	Abusing toxic vapors
Sec. 8-10-60	Penalty

Article 11 Smoking Regulations

Sec. 8-11-10	Legislative declaration
Sec. 8-11-20	Definitions

Sec. 8-11-30 General smoking restrictions
Sec. 8-11-40 Exceptions
Sec. 8-11-50 Optional prohibitions
Sec. 8-11-60 Local regulations authorized
Sec. 8-11-70 Penalty

Article 12 Fireworks

Sec. 8-12-10 Definitions
Sec. 8-12-20 Unlawful to sell or use certain types
Sec. 8-12-30 Permits for display
Sec. 8-12-40 Bond
Sec. 8-12-50 Sale for display
Sec. 8-12-60 Seizure
Sec. 8-12-70 Toy propellant devices used for model or educational rockets
Sec. 8-12-80 Possession of fireworks
Sec. 8-12-90 Exploding fireworks
Sec. 8-12-100 Penalty for violations

Article 13 Weapons

Sec. 8-13-10 Definitions
Sec. 8-13-20 Discharge of firearms
Sec. 8-13-30 Illegal weapons
Sec. 8-13-40 Concealed weapons
Sec. 8-13-50 Displaying, flourishing or brandishing deadly weapon
Sec. 8-13-60 Weapons where vinous, spirituous or malt beverages sold
Sec. 8-13-70 Disposition of confiscated weapons

Article 14 Offenses Relating to Animals

Sec. 8-14-10 Animals creating noise
Sec. 8-14-20 Cruelty to animals
Sec. 8-14-30 Animal fighting

ARTICLE 1

General Provisions

Sec. 8-1-10. Definitions.

(a) The following words, terms and phrases, when used in this Chapter, shall have the meanings described to them in this Section, except where the context clearly indicates a different meaning:

Act means a bodily movement, and shall include words and possession of property.

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

Conduct means an omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

Criminal negligence means when, through a gross deviation from the standard of care that a reasonable person would exercise, a person fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Culpable mental state means intentionally, willfully, knowingly, recklessly or with criminal negligence, as these terms are defined in this Section.

Deadly weapon means any firearm, knife, bludgeon or other weapon, device, instrument, material or substance, whether animate or inanimate, which, in the manner in which it is used or intended to be used, is capable of producing death or serious bodily injury.

Government has the same meaning as described in Section 18-1-901(3)(i), C.R.S.

Intentionally or with intent. A person acts *intentionally* or *with intent* when his or her conscious objective is to cause the specific result proscribed by the Section defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Knowingly or willfully means that all offenses defined in this Chapter, in which the mental culpability requirement, expressed as *knowingly* or *willfully*, are declared to be general intent offenses. A person acts *knowingly* or *willfully* with respect to conduct or to a circumstance described by the section defining an offense when he or she is aware that his or her conduct is of such nature or that such circumstance exists. A person acts *knowingly* or *willfully* with respect to a result of his or her conduct when he or she is aware that his or her conduct is practically certain to cause the result.

Omission means a failure to perform an act as to which a duty of performance is imposed by law.

Peace officer means all of those persons defined and designated as *peace officers* in Article 2.5, Title 16, C.R.S.

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

Public place means a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, roadways, alleys, transportation facilities, schools, places of amusement, parks, playgrounds, the common areas of public buildings and facilities and those portions of private buildings and facilities open to the public.

Public servant means 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 means consciously disregarding a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, breaks, fractures or burns of the second or third degree.

Tamper means to interfere with something improperly, to meddle with it or to make unwarranted alteration in its condition.

Thing of value includes real property, tangible and intangible personal property, contract rights, choses in action, services, confidential information, medical records information and any rights of use or enjoyment connected therewith.

Utility means an enterprise which provides gas, sewer, electric, steam, water, transportation or communication services, and includes any carrier, pipeline, transmitter or source, whether publicly or privately owned or operated.

Voluntary act means an act performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his or her physical possession or control thereof for a sufficient period to have been able to terminate it.

Willful and wanton means conduct purposefully committed which the person knew, or reasonably should have known, was dangerous to another person or property, and which he or she performed without regard to the consequences or the rights and safety of another person or property.

(b) Definitions set forth in this Chapter are for the purpose of simplicity and frequency of usage. They are not intended to be exhaustive. Reference is made to the Colorado Code of Criminal Proceedings, Title 16, and the Criminal Code, Title 18, C.R.S., for clarification of any terminology which may be used in this Chapter and is not expressly defined in this Section. Terms not defined in the Colorado Criminal Code and not defined in this Section shall be construed as being used in their ordinary, usual and accepted sense and meaning. (Ord. 775 §11.01, 2005; Ord. 791 §11.01, 2007; Ord. 811 §1, 2009)

Sec. 8-1-20. Intent.

(a) It is the general intent of this Chapter to deal with those activities normally designated as offenses under the Colorado Criminal Code, Title 18, C.R.S., to which reference is made, over which a home rule

municipality may properly exercise jurisdiction, and, in addition, any other conduct constituting an offense which is not dealt with by the Colorado Criminal Code, but which the City may properly control by its police powers under Article XX of the Constitution of the State.

(b) The provisions of this Chapter are not intended to exclude prosecutions for other offenses found elsewhere in this Code. The provisions of this Chapter are not intended to be construed, either expressly or by implication, to permit conduct which is illegal under the laws of the State. The various sections are not to be construed to apply to conduct which is defined as a felony under the laws of the State. This Code shall not be construed to preempt or prevent prosecution in the courts of the State regarding any offenses not addressed in this Code for which a home rule municipality may properly increase jurisdiction and as defined in the state statutes.

(c) This Chapter preempts any other provisions of this Code which deal with the same subject matter as this Chapter and are in conflict with this Chapter. (Ord. 775 §11.02, 2005; Ord. 791 §11.02, 2007)

Sec. 8-1-30. Scope and application.

(a) Unless the context otherwise requires, the provisions of this Chapter govern the construction of and punishment for any offense, as defined in this Chapter, as well as the construction and application of any defense to a prosecution for such an offense.

(b) The provisions of this Chapter do not apply to or govern the construction of, prosecution for and punishment for any offense committed prior to the effective date of any ordinance codified in this Chapter, or the construction and application of any defense to a prosecution for such an offense. The offense shall be tried and disposed of according to the provisions of law existing at the time of the commission thereof in the same manner as if this Chapter had not been enacted. All pending actions shall proceed to final disposition in the same manner as if this Chapter had not been enacted.

(c) The terms *offense* and *ordinance violation* are synonymous and mean a violation of or conduct defined by this Chapter for which a fine or imprisonment may be imposed.

(d) This Chapter applies to an offense committed within or partly within the City and to all parkland and other land outside the City limits over which the City has jurisdiction under the authority of Section 31-25-216, C.R.S., but is not intended to preempt any state statute or preclude prosecution for any conduct constituting a violation of any statute of the state. (Ord. 775 §11.03, 2005; Ord. 791 §11.03, 2007)

Sec. 8-1-40. Affirmative defenses.

The affirmative defenses available in Sections 18-1-701 through 18-1-709, C.R.S., shall be available as affirmative defenses to the provisions of this Chapter. (Ord. 775 §11.04, 2005; Ord. 791 §11.04, 2007)

Sec. 8-1-50. Limitation of actions.

All suits for the recovery of any fine and prosecutions for the commission of any offense made punishable under this Chapter shall be barred one (1) year after the commission of the offense for which the fine is sought to be recovered. (Ord. 775 §11.05, 2005; Ord. 791 §11.05, 2007)

Sec. 8-1-60. Penalty for violation generally.

A conviction for a violation of any section or subsection of this Chapter, unless otherwise provided to the contrary, shall be punished as provided in Section 1-4-20 of this Code. (Ord. 775 §11.06, 2005; Ord. 791 §11.06, 2007)

ARTICLE 2

Governmental Operations

Sec. 8-2-10. Resisting arrest.

(a) A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, by:

(1) Using or threatening to use physical force or violence against the peace officer or another; or

(2) Using any other means which creates a substantial risk of causing bodily injury to the peace officer or another.

(b) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest, which in fact was unlawful, if he or she was acting under color of his or her official authority, and in attempting to make an arrest, he or she was not resorting to unreasonable or excessive force giving rise to the right of self defense. A peace officer acts under color of his or her official authority when, in the regular course of assigned duties, he or she 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 or her.

(c) The term *peace officer*, as used in this Section, means a peace officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credential as such peace officer to the person whose arrest is attempted. (Ord. 775 §11.25, 2005; Ord. 791 §11.25, 2007)

Sec. 8-2-20. Obstructing a peace officer, firefighter, emergency medical service provider, rescue specialist or volunteer.

(a) A person commits obstructing a peace officer, firefighter, emergency medical services provider, rescue specialist or volunteer when, by using or threatening to use violence, force, physical interference or an obstacle, such person knowingly: obstructs, impairs or hinders the enforcement of the penal law or the preservation of the peace by a peace officer, acting under color of his or her official authority; obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority; obstructs, impairs or hinders the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color of his or her official authority; or obstructs, impairs or hinders the administration of emergency care or emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(b) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use

violence, force, physical interference or an obstacle, he or she knowingly obstructs, impairs or hinders any such animal.

(c) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if he or she was acting under color of his or her official authority as defined in Subsection 8-2-10(b) above.

(d) For purposes of this Section, unless the context otherwise requires:

Emergency medical service provider means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such emergency medical service provider.

Rescue specialist means a member of a public or private rescue agency, whether that person is a volunteer or receives compensation for services rendered as such rescue specialist. (Ord. 775 §11.26, 2005; Ord. 791 §11.26, 2007)

Sec. 8-2-30. Obstructing government operations.

(a) A person commits obstructing government operations if he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public servant, by using or threatening to use violence, force or physical interference or obstacle.

(b) It shall be an affirmative defense that:

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the government. (Ord. 775 §11.27; Ord. 791 §11.27, 2007)

Sec. 8-2-40. Disobeying peace officer, firefighter, emergency medical service provider or rescue specialists.

(a) It is unlawful for any person to knowingly disobey the lawful or reasonable order of any peace officer, firefighter, emergency medical service provider or rescue personnel given incidental to the discharge of his or her official duties.

(b) It is unlawful for any person to knowingly disobey any lawful or reasonable order of any police officer, firefighter, emergency personnel or military personnel given incidental to his or her duties in coping with a fire, explosion, traffic accident, other disaster or investigation. (Ord. 775 §11.28, 2005; Ord. 791 §11.28, 2007)

Sec. 8-2-50. Refusing to aid peace officer.

A person eighteen (18) years of age or older commits an offense when, upon command by a person known to him or her to be a peace officer, he or she unreasonably refuses or fails to aid the peace officer

in effecting or securing any arrest or preventing the commission by another of any offense. (Ord. 775 §11.29, 2005; Ord. 791 §11.29, 2007)

Sec. 8-2-60. False reporting to authorities.

(a) A person commits false reporting to authorities if he or she:

(1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;

(2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur;

(3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities, pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false; or

(4) He or she knowingly provides false identifying information to law enforcement authorities.

(b) For purposes of Paragraph (a)(4) above, *identifying information* means a person's name, address, birth date, social security number, driver's license or Colorado identification number. (Ord. 775 §11.30, 2005; Ord. 791 §11.30, 2007; Ord. 811 §1, 2009)

Sec. 8-2-70. Impersonating a public servant.

(a) A person commits impersonating a public servant if he or she falsely pretends to be a public servant other than a peace officer and performs any act in that pretended capacity.

(b) It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist. (Ord. 775 §11.32, 2005; Ord. 791 §11.32, 2007)

Sec. 8-2-80. Duty to report crime; liability for disclosure.

It is the duty of every person who has reasonable grounds to believe that an ordinance violation has been committed to report promptly the suspected ordinance violation to law enforcement authorities. Notwithstanding any other provision of the law to the contrary, a person may disclose information concerning a suspected ordinance violation to other persons for the purpose of giving notice of the possibility that other such criminal conduct may be attempted which may affect the persons notified. When acting in good faith, such person shall be immune from any civil liability for such reporting or disclosure. This duty shall exist notwithstanding any other provision of the law to the contrary; except that this Section shall not require disclosure of any communication privileged by law. (Ord. 775 §11.33, 2005; Ord. 791 §11.33, 2007)

Sec. 8-2-90. Compounding.

A person commits compounding if he or she accepts or agrees to accept any pecuniary benefit as consideration for:

- (1) Refraining from seeking prosecution of any offender; and
- (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any ordinance violation or information relating to an ordinance violation. (Ord. 775 §11.34, 2005; Ord. 791 §11.34, 2007)

Sec. 8-2-100. Accessory to offense.

(a) A person commits the offense of accessory to offense if, with intent to hinder delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of an offense, he or she renders assistance to such person.

(b) *Render assistance* means to:

- (1) Harbor or conceal the victim or a witness to the offense;
- (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
- (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
- (4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person; or
- (5) Conceal, destroy or alter any physical or testimonial evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) This Section does not apply to reports of the existence or placement of a bomb or other explosive in any public or private place or vehicle designed for transportation of persons or property. (Ord. 775 §11.36, 2005; Ord. 791 §11.36, 2007)

Sec. 8-2-110. Attempt.

(a) A person commits attempt if, acting with the kind of culpability otherwise required for commission of an offense, he or she engages in conduct constituting a substantial step toward the commission of the offense. A *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits attempt if the conduct would establish his or her complicity were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the ordinance violation or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his or her intent. (Ord. 775 §11.37, 2005; Ord. 791 §11.37, 2007)

Sec. 8-2-120. Complicity.

A person is legally accountable as principal for the behavior of another constituting an offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets, advises or encourages the other person in planning or committing the offense. (Ord. 775 §11.01, 2005; Ord. 791 §11.01, 2007)

Sec. 8-2-130. Conspiracy.

(a) A person commits conspiracy to commit an offense if, with the intent to promote or facilitate its commission, he or she agrees with another person or persons that they, or one (1) or more of them, will engage in conduct which constitutes an offense or an attempt to commit an offense, or he or she agrees to aid the other person in the planning or commission of an offense or of an attempt to commit such offense.

(b) No person may be convicted of conspiracy to commit an offense, unless an overt act in pursuance of that conspiracy is proved to have been done by him or her or by a person with whom he or she conspired.

(c) If a person knows that one with whom he or she conspires to commit an offense has conspired with another person to commit the same offense, he or she is guilty of conspiring to commit an offense with the other person, whether or not he or she knows the other person's identity.

(d) If a person conspires to commit a number of offenses, he or she is guilty of only one (1) conspiracy so long as such multiple offenses are part of a single criminal episode.

(e) Conspiracy to commit an offense is an offense.

(f) Conspiracy to commit an offense is an offense of the same class as the offense itself. (Ord. 811 §1, 2009)

Sec. 8-2-140. Refusal to permit inspections.

(a) A person commits an offense if, knowing that a public servant is legally authorized to inspect property:

(1) He or she refuses to produce or make available the property for inspection at a reasonable hour; or

(2) If the property is available for inspection, he or she refuses to permit the inspection at a reasonable hour.

(b) For purposes of this Section, *property* means any real or personal property, including books, records and documents which are owned, possessed or otherwise subject to the control of the person. A *legally authorized inspection* means any lawful search, sampling, testing or other examination of property in connection with the regulation of a business or occupation that is authorized by statute, ordinance or lawful regulatory provision. (Ord. 775 §11.35, 2005; Ord. 791 §11.35, 2007)

ARTICLE 3

Obstructing Justice

Sec. 8-3-10. Escape from custody.

It is unlawful for any person to escape or attempt to escape from, in any manner aid another who is in the custody of a police agent to escape from, or attempt to rescue or rescue a person from the custody of a police officer or from the custody of any person aiding the police officer after being commanded by the police officer to do so; provided, however, that the provisions of this Section do not apply whenever the escapee is being held on account of a felony or charged with or held for any felony. (Ord. 775 §11.51; Ord. 791 §11.51, 2007)

Sec. 8-3-20. Escape from jail.

It is unlawful for any person, while a prisoner in the jails of the City or in any other place in the City where prisoners are confined, or otherwise in the custody of or confined by the City, to escape or attempt to escape. (Ord. 775 §11.52, 2005; Ord. 791 §11.52, 2007)

Sec. 8-3-30. Aiding escape.

It is unlawful for any person to assist, aid or attempt to assist or aid any other person in the custody of or confined under the authority of the City to escape from jail, place of confinement or custody. (Ord. 775 §11.53, 2005; Ord. 791 §11.53, 2007)

Sec. 8-3-40. Furnishing certain items to prisoners.

It is unlawful for any person to make available to or place within the reach of, or to cause to be made available to, presented to or placed within the reach of, any person confined under authority of the City any vinous, spirituous or malt liquors, or any weapon, tool, implement or other thing calculated to aid in the escape of such person so confined or any other person confined under authority of the City. (Ord. 775 §11.54, 2005; Ord. 791 §11.54, 2007)

ARTICLE 4

Offenses Against Property

Division 1

Generally

Sec. 8-4-10. Posting notices or advertisements to utility poles.

No person shall, directly or indirectly, in person or by another, either as principal, agent, clerk or servant, post or cause to be posted or placed upon any electric light pole or telephone pole located upon any street, alley or other public way within the City any bill, poster, notice or any sort of advertisement which remains after the date of the event described. (Ord. 775 §11.61, 2005; Ord. 791 §11.61, 2007)

Sec. 8-4-20. Trespassing.

It is unlawful for any person, without legal privilege, to enter or remain upon the premises of another or to fail or refuse to remove himself or herself from the premises when requested to leave by the owner, occupant or person having lawful control thereof. (Ord. 775 §11.62, 2005; Ord. 791 §11.62, 2007)

Sec. 8-4-30. Shoplifting.

(a) It is unlawful for any person to intentionally conceal or otherwise carry away, or to knowingly aid another to conceal or otherwise carry away, unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment with the intent to avoid payment therefor; provided, however, that the aggregate value of the unpurchased goods, wares or merchandise shall be less than one thousand dollars (\$1,000.00).

(b) If any person willfully conceals unpurchased goods, wares or merchandise owned or held by, and offered or displayed for sale by any store or other merchandise establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the offense of shoplifting. (Ord. 775 §11.63, 2005; Ord. 791 §11.63, 2007; Ord. 811 §1, 2009)

Sec. 8-4-40. Price switching.

It is unlawful for any person to alter, remove or switch the indicated price of any unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment with the intent to defraud the store or mercantile establishment; provided, however, that this Section shall apply to goods, wares or merchandise of a value of less than one thousand dollars (\$1,000.00). (Ord. 775 §11.64; Ord. 791 §11.64, 2007; Ord. 811 §1, 2009)

Sec. 8-4-50. Theft.

(a) A person commits theft when he or she knowingly obtains or exercises control over anything of value of another with a value less than one thousand dollars (\$1,000.00) without authorization, or by threat or deception and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

(b) For the purposes of this Section, a thing of value is that of another if anyone other than the defendant has a possessory or proprietary interest therein. (Ord. 775 §11.65; Ord. 791 §11.65, 2007; Ord. 801 §A, 2008; Ord. 811 §1, 2009)

Sec. 8-4-60. Procuring food, accommodations or fuel with intent to defraud.

It is unlawful for any person, with intent to defraud, to procure food, accommodations or fuel from a store, restaurant or other public establishment without making payment therefor, and the value of said payment is in an amount of less than one thousand dollars (\$1,000.00). (Ord. 775 §11.66, 2005; Ord. 791 §11.66, 2007; Ord. 801 §A, 2008)

Sec. 8-4-70. Theft of rental property.

A person commits the offense of theft of rental property when he or she:

(1) Obtains the temporary use of personal property of another, with a value of less than one thousand dollars (\$1,000.00) of another which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(2) Having lawfully obtained possession for temporary use of the personal property, with a value of less than one thousand dollars (\$1,000.00) of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return said property to the owner thereof or his representative or to the person from whom he has received it within seventy-two (72) hours after the time at which he agreed to return it. (Ord. 801 §A, 2008; Ord. 811 §1, 2009)

Sec. 8-4-80. Theft by receiving.

A person commits the offense of theft by receiving when he or she receives, retains, loans money by pawn or pledge on, or disposes of anything of value of another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value and the aggregate value of the thing or things involved is less than one thousand dollars (\$1,000.00). (Ord. 801 §A, 2008)

Division 2
Private Property

Sec. 8-4-110. Injury to property prohibited.

It is unlawful for any person to intentionally injure, damage or destroy the real or personal property of another without a legal right or authority to injure, damage or destroy the property, and the aggregate value of the real or personal property injured, damaged or destroyed is less than one thousand dollars (\$1,000.00). (Ord. 775 §11.81, 2005; Ord. 791 §11.81, 2007; Ord. 801 §A, 2008)

Sec. 8-4-120. Damage to or removal of signs.

It is unlawful for any unauthorized person to remove, deface, injure, damage or destroy any street sign or traffic-control or warning sign or device erected or placed in or adjacent to any street. (Ord. 775 §11.82, 2005; Ord. 791 §11.82, 2007)

Sec. 8-4-130. Defacing property.

Any person who defaces or causes, aids in or permits the defacing of any public or private property without the consent of the owner commits the offense of defacing property. (Ord. 775 §11.83, 2005; Ord. 791 §11.83, 2007)

Sec. 8-4-140. Defacing posted notice.

Any person who intentionally mars, destroys or removes any posted notice authorized by law commits the offense of defacing posted notice. (Ord. 775 §11.84, 2005; Ord. 791 §11.84, 2007)

Sec. 8-4-150. Criminal tampering.

A person commits the offense of criminal tampering if, with the intent to cause interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, he or she tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he or she makes unauthorized connections with the property of a utility. (Ord. 775 §11.85, 2005; Ord. 791 §11.85, 2007)

Sec. 8-4-160. Tampering with cable systems.

(a) It shall be unlawful for any person to knowingly:

(1) Obtain cable television service from a licensed or duly permitted cable television system without the authorization of the cable television system supplying the service.

(2) Make or maintain a connection, whether mechanically, electrically or acoustically, attach or maintain an attachment of any device to any cable, wire or other component of a licensed or duly permitted cable television system without the authorization of such system, or make or maintain any modification or alteration to any device installed with the authorization of a licensed or duly permitted cable television system; however, this shall not include the attachment of a wire or cable to extend service he or she has paid for or which has been authorized.

(3) Manufacture, distribute, sell or offer for sale, rental or use any decoding or descrambling device or any plan or kit for such device, designed in whole or in part to facilitate the doing of any of the acts specified in Paragraphs (1) and (2) above.

(b) The provisions of this Section do not apply to satellite dishes. (Ord. 775 §11.86, 2005; Ord. 791 §11.86, 2007)

Division 3
Public Property

Sec. 8-4-210. Unlawful conduct.

(a) It is unlawful for any person to enter or remain in any public building or on any public property, or to conduct himself or herself in or on the same, in violation of any order, rule or regulation concerning any matter prescribed in this Section, limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management or supervision of the building or property. In addition to any authority granted by any other law, each officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of the public buildings and property; specifically, orders, rules and regulations upon the following matters:

(1) The preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds, other structures and any object of scientific, historical or scenic interest.

(2) The restriction or limitation of the use of the public buildings or property as to time, manner or permitted activities.

(3) The prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others, or which may constitute a general nuisance.

(4) Necessary sanitation, health and safety measures, consistent with Section 25-13-113, C.R.S.

(5) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted.

(6) The use of all vehicles as to place, time and manner of use.

(7) Control and limitation of fires and designation of places where fires may be permitted.

(b) No conviction may be obtained under this Section unless notice of the limitations or prohibitions designated in this Section is prominently posted at all public entrances to the building or property, or unless the notice is actually first given to the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce. (Ord. 775 §11.101, 2005; Ord. 791 §11.101, 2007)

Sec. 8-4-220. Trespass or interference in public buildings.

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the State or any of its political subdivisions or by the City so as to willfully deny to any public official, public employee or any invitee on the premises the lawful rights of the official, employee or invitee to enter, to use the facilities of or to leave any public building.

(b) No person shall, at or in any public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, intimidation, force and violence or threat thereof.

(c) No person shall willfully refuse or fail to leave any public building owned, operated or controlled by the State or any of its political subdivisions or by the City as to willfully deny to any public official, public employee or any invitee on the premises the lawful rights of the official, employee or invitee to enter, to use the facilities of or to leave any public building.

(d) No person shall willfully refuse or fail to leave any public building upon being requested to do so by the Chief Administrative Officer charged with maintaining order in the public building, if such person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(e) No person, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, shall willfully impede, disrupt or hinder the normal proceedings of such body or official.

(f) No person, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, shall willfully impede, disrupt or hinder the normal proceedings of the meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session, or by any act designed to intimidate, coerce or hinder any member of the body or official engaged in the performance of duties at the meeting or session. (Ord. 775 §11.102, 2005; Ord. 791 §11.102, 2007; Ord. 811 §1, 2009)

Sec. 8-4-230. Curfew in parks, public lots and recreational areas.

The parks, public parking lots, parkways and recreational areas which are the subject of this Chapter, within the City, shall normally be opened daily to the public from 5:00 a.m. until 10:00 p.m. No person who is not an employee of the authority having jurisdiction over a particular park, public parking lot, parkway or recreational area of the City, acting in the scope of his or her employment, shall remain in any such park, public parking lot, parkway or recreational area at any other time; provided, however, that the authority having jurisdiction over such park, public parking lot, parkway or recreational area may, by permit or authorization first had or obtained or by regulation duly posted in the area affected, extend to a later hour the night-time closing hour with respect to particular areas of parks, public parking lots, parkways or recreational areas, and with respect to particular recreational activities in such parks, public parking lots, parkways or recreational areas. Nothing contained in this Chapter shall prevent or make unlawful the conduct of or attendance at a nighttime athletic event or activity in areas set aside and lighted for such events or activities by or with the permission of the authority having jurisdiction of the park,

public parking lot, parkway or recreational area. (Ord. 775 §11.103; Ord. 791 §11.103, 2007; Ord. 811 §1, 2009)

Sec. 8-4-240. Damaging or destroying library property.

It is unlawful for any person to write in, injure, deface, tear or destroy any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, periodical, manuscript, phonograph record, videotape, compact disc or DVD belonging to the public library of the City. (Ord. 775 §11.104, 2005; Ord. 791 §11.104, 2007; Ord. 811 §1, 2009)

Sec. 8-4-250. Failure to return library property.

It is unlawful for any person to fail to return any book or other item belonging to the public library of the City in accordance with the requirements of the rules and regulations of the library. (Ord. 775 §11.105, 2005; Ord. 791 §11.105, 2007)

Sec. 8-4-260. Removal of library property.

It is unlawful for any person to remove or to assist in the removal from the public library, or any of its branches, deposit stations, collection sites or bookmobiles, any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, periodical, manuscript, phonograph record or other item belonging to the public library or the City, without first having the same charged or checked out by the proper agent or employee in the public library in accordance with the requirements of the rules and regulations of the library. (Ord. 775 §11.106, 2005; Ord. 791 §11.106, 2007)

Sec. 8-4-270. Littering.

(a) Any person who deposits, throws or leaves any litter on any public or private property or in any waters commits littering.

(b) It shall be an affirmative defense that:

(1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property;

(2) The litter is placed in a receptacle or container installed on such property for that purpose;

(3) Such person is the owner or tenant in lawful possession of such property or has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

(c) The term *litter*, as used in this Section, means all rubbish, waste material, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

(d) The phrase *public or private property*, as used in this Section, includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground, building, refuge, conservation or recreation area, and any residential, farm or ranch properties or timberlands. (Ord. 775 §11.107, 2005; Ord. 791 §11.107, 2007)

Sec. 8-4-280. Desecration of venerated objects.

(a) For the purposes of this Section, the word *desecrate* shall mean to deface, damage, pollute or otherwise physically mistreat in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result.

(b) Except as otherwise provided in Section 24-80-1305, C.R.S., with respect to the disturbance of an unmarked human burial, it is unlawful for a person to knowingly desecrate any place of worship or burial of human remains.

(c) A person commits desecration of venerated objects if he or she knowingly desecrates any public monument or structure or desecrates in a public place any other object of veneration by the public. (Ord. 775 §11.108, 2005; Ord. 791 §11.108, 2007)

ARTICLE 5

Offenses Against the Person

Sec. 8-5-10. Assault.

It is unlawful for any person to knowingly or recklessly cause bodily injury to another person; provided, however, that this shall not apply to injury caused by means of a deadly weapon, nor shall it apply in the event of serious bodily injury. (Ord. 775 §11.121, 2005; Ord. 791 §11.121, 2007)

Sec. 8-5-20. Menacing without deadly weapon.

It is unlawful for any person to intentionally place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided, however, that if such action is with the use of a deadly weapon, this Section shall not apply. (Ord. 775 §11.122, 2005; Ord. 791 §11.122, 2007)

Sec. 8-5-30. Reckless endangerment.

It is unlawful for any person recklessly engage in conduct which creates substantial risk of serious bodily injury to another person. (Ord. 775 §11.123, 2005; Ord. 791 §11.123, 2007)

ARTICLE 6

Offenses Against Public Decency

Sec. 8-6-10. Public indecency.

(a) It is unlawful for a person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

(b) A person commits public indecency who performs any of the following acts in a public place, or where the conduct may reasonably be expected to be viewed by members of the public:

- (1) An act of sexual intercourse.
- (2) An act of deviate sexual intercourse.
- (3) A lewd exposure of the body done with intent to arouse or satisfy the sexual desire of any person.
- (4) A lewd fondling or caress of the body of another person.

(c) Public urination and defecation unlawful. It is unlawful for any person to urinate or defecate in any public place, or in any place within public view, other than a toilet facility provided for such purpose. A *place within public view* is any place where conduct by a person reasonably may be expected to be open to view by members of the public. A *public place* is a place to which the public or a substantial number of the public has access, such as, but without limiting the generality of the foregoing, streets, alleys, schools, places of amusement, parks, playgrounds, the common areas of private buildings and facilities, as well as such areas of public buildings and facilities. (Ord. 775 §11.141, 2005; Ord. 791 §11.141, 2007; Ord. 811 §1, 2009)

Sec. 8-6-20. Prostitution.

Any person, either male or female, who performs, offers or agrees to perform any act of sexual intercourse, or any act of deviate sexual intercourse, with any person not the spouse of such person, in exchange for money or other thing of value, commits the offense of prostitution. (Ord. 775 §11.142, 2005; Ord. 791 §11.142, 2007)

ARTICLE 7

Offenses Against Public Peace

Sec. 8-7-10. Disorderly conduct.

A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

- (1) Makes a coarse and obviously offensive utterance, gesture or display in a public place; or
- (2) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy; or
- (3) Fights with another in a public place, except in an amateur or professional contest of athletic skill; or
- (4) Not being a peace officer, discharges a firearm in a public place, except when engaged in lawful target practice or hunting; or
- (5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place, in a manner calculated to alarm. (Ord. 775 §11.161, 2005; Ord. 791 §11.161, 2007)

Sec. 8-7-20. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

(1) Strikes, shoves, kicks or otherwise touches a person or subjects him or her to physical contact;
or

(2) In a public place directs obscene language or makes an obscene gesture to or at another person; or

(3) Follows a person in or about a public place; or

(4) Initiates communication with a person, anonymously or otherwise, by telephone, computer, computer network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system that is obscene; or

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions. (Ord. 775 §11.162, 2005; Ord. 791 §11.162, 2007)

Sec. 8-7-30. Interference with educational institutions.

(a) No person on or near the premises or facilities of any educational institution shall willfully deny to students, school officials, employees and invitees:

(1) Lawful freedom of movement on the premises.

(2) Lawful use of the property or facilities of the institution.

(3) The right of lawful ingress to and egress from the institution's physical facilities.

(b) No person, on the premises of any educational institution or at or in any building or other facility being used by any educational institution, shall willfully impede the staff or faculty of the institution in the lawful performance of their duties or impede a student of the institution in the lawful pursuit of his or her education activities, through the use of restraint, abduction, coercion or intimidation, or when force and violence are present or threatened.

(c) Refusal to leave. No person shall willfully refuse or fail to leave the property of, or any building or other facility used by, any school or educational institution upon being requested to do so by the chief administrative officer, his or her designee charged with maintaining order on the school premises and in its facilities, or a dean of the educational institution, if the person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the institution.

(d) A person commits loitering on educational premises if he or she, with intent to interfere with or disrupt the school program or with intent to interfere with or endanger school children, loiters in a school building or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of or responsibility for a pupil, or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator or his or her representative or by a peace officer.

(e) Exemptions. Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor or any employee thereof. (Ord. 775 §11.163, 2005; Ord. 791 §11.163, 2007)

Sec. 8-7-40. Disrupting lawful assembly.

It is unlawful for any person to disrupt a lawful assembly if, with the intent to prevent or disrupt any lawful meeting, proceeding or gathering, he or she significantly obstructs or interferes with the meeting, proceeding or gathering by physical action, verbal utterances or any other means. (Ord. 775 §11.164, 2005; Ord. 791 §11.164, 2007)

Sec. 8-7-50. Riots.

(a) Definition. For the purposes of this Section, the word *riot* shall mean a public disturbance involving an assemblage of five (5) or more persons which, by tumultuous and violent conduct, creates grave danger of damage or injury to property or persons, or substantially obstructs the performance of any government function.

(b) Prohibition. A person commits inciting riot under this Section if he or she incites or urges a group of five (5) or more persons to engage in a current or impending riot or gives commands, instructions or signals to a group of five (5) or more persons in furtherance of a riot without injury to persons or property.

(c) Conviction. A person may be convicted under this Section of attempt, conspiracy or solicitation to incite a riot only if he or she engages in the prohibited conduct with respect to a current or impending riot. (Ord. 775 §11.165, 2005; Ord. 791 §11.165, 2007)

Sec. 8-7-60. Disobedience of public safety orders; exceptions.

(a) A person commits an offense if, during a riot or when one is impending, he or she knowingly disobeys a lawful public safety order to move, disperse or refrain from specified activities in the immediate vicinity of the riot. A *public safety order* is an order designed to prevent or control disorder,

or promote the safety of persons or property, issued by an authorized member of the police, fire, military or other forces concerned with the riot.

(b) No order shall apply to a news reporter or other person observing or recording the events in behalf of the public press or other news media unless he or she is physically obstructing efforts by such forces to cope with the riot or impending riot.

(c) It is an affirmative defense that the person's acts were lawful and he or she was exercising his or her rights of lawful assembly as a part of a peaceful and orderly petition for the redress of grievances, either in the course on labor disputes or otherwise. (Ord. 775 §11.166; Ord. 791 §11.166, 2007; Ord. 811 §1, 2009)

Sec. 8-7-70. Obstructing highway or other passageway.

(a) A person commits an offense if, without legal privilege, he or she intentionally, knowingly or recklessly:

(1) Obstructs a highway, street, 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 or her acts alone or from his or her acts and the acts of others.

(2) Disobeys a reasonable request or order to move issued by a person he or she 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 or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

(b) For purposes of this Section, *obstruct* means to render impassable or to render passage unreasonably inconvenient or hazardous. (Ord. 775 §11.167, 2005; Ord. 791 §11.167, 2007)

Sec. 8-7-80. Hindering transportation.

A person commits the offense of hindering transportation if he or she knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person. (Ord. 775 §11.168, 2005; Ord. 791 §11.168, 2007)

Sec. 8-7-90. Throwing stones or missiles.

It is unlawful for any person to willfully, maliciously or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing or other dangerous missile at or against the person, animal, building, structure, personal property, fixture or vehicle of another, except that the provisions of this Section shall not apply to persons throwing, projecting or shooting any dangerous missile at any animal in order to protect his or her person or property or the person or property of another from physical injury. (Ord. 775 §11.169, 2005; Ord. 791 §11.169, 2007)

Sec. 8-7-100. Loud and obnoxious noises.

(a) Vehicle audio systems. No person shall, without prior authorization of the Chief of Police or City Manager, operate a speaker device or vehicle audio system in, upon or from any vehicle, upon any street,

alley or sidewalk of the City, which has the effect of an unreasonable and offensive annoyance to other persons.

(b) Jake Brakes.

(1) The use of "Jake Brakes" or any other similar designated auxiliary braking system upon trucks and other motor vehicles is hereby prohibited within the confines or limits of the City.

(2) Any person who utilizes such braking system and thereby creates an annoying and disturbing noise within the City shall be guilty of a violation of this Section and shall be subject to a fine of not more than one hundred dollars (\$100.00) upon the first offense and a fine of not more than three hundred dollars (\$300.00) for each subsequent offense.

(c) Barking dog. It is unlawful for any owner or keeper of any dog to permit such dog, by loud and persistent or habitual barking, to disturb any person or neighborhood.

(d) Motor vehicle noise levels.

(1) It shall be unlawful and an offense for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, within the City, any motor vehicle, motorcycle, ATV or other self-propelled motorized vehicle which emits a sound pressure level in excess of eighty (80) decibels. Noise from such vehicle within the public right-of-way shall be measured at a distance at least twenty-five (25) feet from the near side of the nearest traffic lane being monitored on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute (ANSI).

(2) Noise from such vehicles which are located other than within the public right-of-way shall be measured at a distance at least twenty-five (25) feet from said vehicle on a sound level decibel meter as referenced in Paragraph (1) above.

(3) Mufflers – prevention of noise. It shall be unlawful and an offense for any person to operate, or for the owner to cause or knowingly permit the operation of any vehicle, within the City, which is not equipped with an adequate muffler and is in constant operation and properly maintained to prevent any unnecessary noise, and no muffler or exhaust system shall be modified or used with a cutoff, bypass or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that which is specified in Paragraph (1) above.

(4) Vehicle sound systems.

a. Notwithstanding any other provision in this Section and in addition thereto, it shall be an offense for any person to operate or use, or cause or suffer to be operated or used, any vehicle sound system in such a manner as to be plainly audible at a distance of twenty-five (25) feet from the motor vehicle unless a permit therefor has first been obtained in accordance with Subparagraph b. below and is in effect. The driver of any vehicle upon which is located a vehicle sound system which is plainly audible at a distance of twenty-five (25) feet from the vehicle shall be presumed to be operating, using or causing the operation of such vehicle sound system.

b. Any persons desiring to operate any vehicle sound system for either commercial or noncommercial purposes in such a manner as to be plainly audible at a distance of twenty-five (25) feet from the vehicle shall first obtain a permit therefor from the City Clerk, who shall consider the facts and circumstances which may justify granting or denying of such permit and shall articulate the reasons for granting or denying the same with due regard for public peace, health and safety. The permit may authorize such use or operation of the motor vehicle sound system between the hours of 7:00 a.m. and 10:00 p.m. for not more than three (3) days in any one (1) calendar year. In addition, the application for a permit shall provide the following information:

1. The name, address and telephone number of the owner and user of the motor vehicle sound system;
2. The license number of the motor vehicle which is to be used and proof of motor vehicle insurance for such vehicle;
3. A general description of the sound amplifying equipment which is to be used;
4. A statement whether the use of the motor vehicle sound system will be used for commercial or noncommercial purposes and the reasons justifying such permit; and
5. The date or dates, not exceeding three (3), during which the sound system is proposed to be operated.

(5) The provisions of this Subsection shall have no applicability to authorized emergency vehicles, as defined in Chapter 7, Article 1 of this Code, nor to sound produced by any sirens or horns on such vehicles or other noise emanating from such vehicles.

(e) Other noise. It is unlawful for any person to operate within the City any machinery, equipment, loudspeakers, music, device or other noise from any residence, business or other property which unreasonably disturbs any person or neighborhood between the hours of 10:00 p.m. and 7:00 a.m.

(1) Sound from a source regulated by this Subsection:

a. Sound from a source on private property shall be measured at or inside the property line of property other than that on which the sound source is located;

b. Sound from a source on public property may be measured on that receiving property so long as the measurement is taken at least twenty-five (25) feet from the source, or it may be measured at or inside the property line of the receiving property other than the public property on which the sound source is located;

c. For purposes of this Subparagraph, a leasehold shall be deemed a property of the lessee, and its boundary, other than a boundary with adjacent property owned by the lessee, shall be deemed a property line.

(2) All sound measurements shall be made on a sound level meter that meets ANSI specifications as described in Paragraph (d)(1) above. The manufacturer's published indication of compliance with such specifications is prima facie evidence of compliance with the Subsection. It shall not be a

defense to this Subsection that the operator of said device was not certified to use the same or that the device was not certified by any agency.

(3) Periodic, impulsive or shrill noises which unreasonably disturb any person or neighborhood at the times therein set forth in Subsection (e) above are a violation of this Subsection.

(4) It shall be a defense to a charge of violating this Subsection that:

a. The sound was made by an authorized emergency vehicle when responding to an emergency or by an emergency warning device operated by a government.

b. The sound was made by sounding the horn of any vehicle as a danger warning signal or by the sounding of any warning device as required by law.

c. The sound was made within the terms of a fireworks display or temporary street closure permit issued by the City Manager, or was made by the rendering of military honors at a funeral by a military funeral honors detail.

d. The sound was made within the terms and conditions of a sound level variance granted by the City Manager.

e. The sound was made on property belonging to or leased or managed by a federal, state or county governmental body other than the City and made by an activity of the governmental body or by others pursuant to a contract, lease or permit granted by such governmental body.

f. The sound was made by a police alarm device if the police alarm shuts off automatically after no longer than ten (10) minutes, by a fire alarm or by an alarm system installed in a motor vehicle if the car alarm shuts off automatically after no longer than five (5) minutes.

g. The sound was made by snow removal equipment equipped with a standard muffling system in good repair while removing snow.

h. The sound was made between the hours of 7:00 a.m. and 9:00 p.m. by a lawn mower or gardening equipment equipped with a standard muffling system in good repair.

i. The sound was made by persons operating construction, home repair/renovations, equipment (skill saws, nail guns, hammers, etc.) which is temporary and nonrecurring in nature and not carried on as a continuing home occupation.

(5) This Subsection shall not be construed to conflict with the right of any person to maintain an action in equity to abate a noise nuisance under the laws of the State. (Ord. 775 §§11.170, 11.171, 2005; Ord. 783, 2006; Ord. 791 §§11.170, 11.171, 2007; Ord. 811 §1, 2009; Ord. 840, 2013)

ARTICLE 8

Offenses by or Against Minors

Sec. 8-8-10. Curfew.

It is unlawful for any parent, guardian or other person having legal care or custody of any minor who has not reached his or her eighteenth birthday to allow or permit such minor to loiter or wander upon any streets, alleys, highways, roads or other public grounds, public places, public buildings, vacant lots or other unsupervised places, to operate any motor vehicle in such a manner as to disturb the peace and quiet of any neighborhood within the City, or to loiter or wander in any establishment open to the public generally after the hour of 10:30 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 11:30 p.m. on any Friday or Saturday, or before the hour of 5:00 a.m. on any day, except:

- (1) When accompanied by a parent, guardian or other person having legal care or custody of the minor.
- (2) For lawful employment.
- (3) When the minor is in the custody of and accompanied by a person who has reached his or her eighteenth birthday and who has in his or her possession the written consent of the parent, guardian or other person having legal care and custody of the minor. (Ord. 775 §11.191, 2005; Ord. 791 §11.191, 2007)

Sec. 8-8-20. Loitering.

(a) It is unlawful for any minor who has not reached his or her eighteenth birthday to loiter or wander upon any streets, alleys, highways, roads or other public grounds, public places, public buildings, vacant lots or other unsupervised places, or to loiter or wander in any establishment open to the public generally after the hour of 10:30 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 11:30 p.m. on any Friday or Saturday, or before the hour of 5:00 a.m. on any day.

(b) The exceptions under Section 8-8-10 above are an affirmative defense to any prosecution under this Section. However, the exceptions shall not be, under Section 8-8-10 or this Section, an affirmative defense if the minor was operating a motor vehicle in such a manner as to disturb the peace and quiet of any neighborhood within the City. The minor may be prosecuted in the District Court of the County under the Colorado Children's Code, to which reference is made, for a violation of this Section despite any other references as to the applicability of the Code of Public Safety otherwise contained in this Article. (Ord. 775 §11.192, 2005; Ord. 791 §11.192, 2007)

Sec. 8-8-30. Furnishing tobacco products to minors.

(a) Intent. It is the intent of this Section to protect the public health, safety and welfare by prohibiting the dissemination and furnishing of tobacco products to minors.

(b) Definitions. As used in this Section, the following words or phrases are defined as follows:

Minor means any person at least ten (10) years of age but under eighteen (18) years of age.

Tobacco product means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(c) Unlawful furnishing of tobacco products to minors.

(1) It is unlawful for any person to knowingly furnish to any minor, by gift, sale or any other means, any tobacco product.

(2) It shall be an affirmative defense to a prosecution under this Section that the person furnishing the tobacco products was presented with and reasonably relied upon a document which identified the minor receiving the tobacco product as being eighteen (18) years of age or older.

(d) Retail sale of tobacco products. It is unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to stock or display a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of a business employee for each transaction. The provisions of this Subsection shall not apply to stores possessing a valid retail liquor store license, as defined by the Colorado Liquor Code, issued by the City, and to vending machines meeting the requirements of Subsection (e) below.

(e) Vending machines.

(1) It is unlawful for any person to sell or offer to sell any tobacco product by use of a vending machine or other coin-operated machine, except that tobacco products may be sold at retail through vending machines only in places where minors are not permitted access and such vending machine is under the direct supervision of the owner of the establishment or an employee of the owner.

(2) It is unlawful for any person to possess or allow upon premises controlled by such person an operable vending machine containing any tobacco product unless such vending machine is located in a place where minors are not permitted access and such vending machine is under direct supervision of the owner of the establishment or an employee of the owner.

(3) As used in this Section, *under direct supervision* means the vending machine shall be in plain vision of the employee or owner during regular business hours. (Ord. 775 §11.193; Ord. 791 §11.193, 2007; Ord. 811 §1, 2009)

Sec. 8-8-40. Possession and smoking of tobacco products by minors prohibited.

(a) Definitions set forth in Section 8-8-30 above are incorporated into this Section.

(b) *Smoking* means the holding or carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind.

(c) It shall be unlawful and a violation of this Section for any minor to possess any tobacco product within the City.

(d) It shall be unlawful and a violation of this Section for any minor to purchase, obtain or attempt to purchase or obtain any tobacco product within the City.

(e) It shall be unlawful for any minor to consume or use, either by smoking, ingesting, absorbing or chewing, any tobacco product within the City. (Ord. 837, 2011)

Sec. 8-8-50. Use or possession of tobacco products on school property prohibited.

It shall be unlawful and a violation of this Section for any person to possess, consume, use or smoke any tobacco product on any property in the City, which is owned, operated or leased by a public or nonpublic school or other educational or vocational institution. (Ord. 837, 2011)

ARTICLE 9

Alcoholic Beverages

Sec. 8-9-10. Definitions.

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

Alcoholic beverage or *alcoholic liquor* means fermented malt beverages or malt, vinous or spirituous liquors.

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements connected therewith, and shall also include any members, employees and occupants associated therewith.

Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

Malt liquor includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

Private property means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately owned real property which is not open to the public. Private property shall not include:

- a. Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;
- b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- c. Any establishment which leases, rents or provides accommodations to members of the public generally.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or accessible to members of the general public. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place or places, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

Spirituous liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 811 §1, 2009)

Sec. 8-9-20. Alcohol-related violations.

(a) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be over the age of twenty-one (21) years for the purpose of purchasing within the City any fermented malt beverage or malt, vinous or spirituous liquors.

(b) It is unlawful for any person under the age of twenty-one (21) years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.

(c) It is unlawful for any person under the age of twenty-one (21) years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.

(d) It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years; to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age; to permit spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age; or to permit any such person to participate in the sale or dispensing thereof.

(e) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any fermented malt beverage or malt, vinous or spirituous liquors.

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. (Ord. 811 §1, 2009)

Sec. 8-9-30. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) Any person under twenty-one (21) years of age who possesses or consumes alcoholic beverages anywhere in the City commits illegal possession or consumption of alcoholic beverages by an underage

person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

(b) It is an affirmative defense to the offense described in Subsection (a) above that the alcoholic beverages were possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(c) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(d) Prima facie evidence of a violation of Subsection (a) of this Section shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed alcoholic beverages anywhere in this State; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in this State.

(e) During any trial for a violation of Subsection (a) above, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Paragraph (b)(1) above. This Subsection shall not be construed to permit any

establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Ord. 811 §1, 2009)

Sec. 8-9-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any public or parochial school or the principal campus of any college, university or seminary, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal or reissuance, upon the expiration thereof, of any license in effect, or affect any such business as set forth in Section 12-47-302, C.R.S. (Ord. 811 §1, 2009)

Sec. 8-9-50. Open container.

(a) No person shall carry or have any open containers of alcoholic beverages on any street, sidewalk, alley or other public place, in any automobile or on the grounds or in the facilities of any public or private school, college or university except where authorized by the governing authority of such institution.

(b) No person shall drink any alcoholic beverages in or on any of the above enumerated places.

(c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages.

(d) It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in any public place as defined in Section 8-1-10 of this Chapter, upon any street, alley, sidewalk or other public property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the City or within any motor vehicle upon the same; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license. (Ord. 775 §11.143; Ord. 791 §11.143, 2007; Ord. 811 §1, 2009)

ARTICLE 10

Controlled Substances

Sec. 8-10-10. Definitions.

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

Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this Article, and also includes marijuana, marijuana concentrate and cocaine.

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state laws. *Drug paraphernalia* includes, but is not limited to:

- a. Testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of state laws.
- b. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- c. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or otherwise cleaning or refining marihuana.
- d. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- e. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- f. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
- g. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
 1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls used or designed for use in compounding controlled substances;
 2. Water pipes;
 3. Carburetion tubes and devices;
 4. Smoking and carburetion masks;
 5. Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette that has become too small or too short to be held in the hand;
 6. Miniature cocaine spoons and cocaine vials;
 7. Chamber pipes;
 8. Carburetor pipes;
 9. Electric pipes;

10. Air-driven pipes;
11. Chillums;
12. Bongs; and
13. Ice pipes or chillers.

Marihuana or *marijuana* means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include the mature stalks of the plant, the fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as marijuana herein. (Ord. 775 §11.222; Ord. 791 §11.222, 2007; Ord. 811 §1, 2009)

Sec. 8-10-20. Offenses relating to marijuana.

- (a) It is unlawful for any unauthorized person to possess not more than one (1) ounce of marijuana.
- (b) It is unlawful for any unauthorized person to openly and publicly display, consume or use not more than one (1) ounce of marijuana.
- (c) Medical marijuana prohibitions.

- (1) Definitions.

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

Medical marijuana center means a person authorized to be licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to prohibit as a matter of law.

Medical marijuana-infused products manufacturer means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as a Medical Marijuana-Infused Products Manufacturing License, and which a municipality is authorized to prohibit as a matter of law.

Optional premises cultivation operation means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as an optional premises grow facility in order to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution, and which a municipality is authorized to prohibit as a matter of law.

Patient has the meaning provided in Section 14(1)(c) of Article XVIII of the Colorado Constitution.

Primary caregiver has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof.

(2) Medical marijuana center, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses prohibited. It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, optional premises cultivation operation or facility for which a medical marijuana-infused products manufacturers' license could otherwise be obtained within the City, and all such uses are hereby prohibited in any location within the City or within any area hereinafter annexed to the City.

(3) Patient and primary caregivers. Nothing in this Section shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and consistent with Section 25-1.5-106, C.R.S., and rules promulgated thereunder, as the same statute and rules may be amended from time to time. (Ord. 775 §11.221, 2005; Ord. 791 §11.221, 2007; Ord. 822 §A, 2010)

Sec. 8-10-30. Possession of drug paraphernalia.

A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State. (Ord. 775 §11.222, 2005; Ord. 791 §11.222, 2007)

Sec. 8-10-40. Determination and consideration of drug paraphernalia.

In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) The proximity of the object to controlled substances.

(3) The existence of any residue of controlled substances on the object.

(4) Direct or circumstantial evidence of the knowledge of any owner or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he or she knows or reasonably should know could use the object to facilitate a violation of Sections 18-18-425 to 18-18-430, C.R.S.

(5) Instructions, oral or written, provided with the object concerning its use.

(6) Descriptive materials accompanying the object which explain or depict its use.

(7) National or local advertising concerning its use.

(8) The manner in which the object is displayed. (Ord. 775 §11.223, 2005; Ord. 791 §11.223, 2007)

Sec. 8-10-50. Abusing toxic vapors.

(a) As used in this Section, the term toxic vapors means the following substances or products containing such substances: alcohols, including methyl, isopropyl, propyl or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; Freons, including Freon 11 and Freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchlorethylene; toluene; trichloroethane or xylene.

(b) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this Section. This Subsection shall not apply to the inhalation of anesthesia for medical or dental purposes.

(c) It is unlawful for any person knowingly to sell, offer for sale, deliver or give away to any other person any substance or product releasing toxic vapors, where the seller, offeror or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.

(d) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 811 §1, 2009)

Sec. 8-10-60. Penalty.

Any persons convicted of a violation of this Article shall be subject to a fine within the jurisdiction of imposition by the Municipal Court. (Ord. 775 §11.224, 2005; Ord. 791 §11.224, 2007)

ARTICLE 11

Smoking Regulations

Sec. 8-11-10. Legislative declaration.

The City Council hereby finds and determines that it is in the best interest of the people of the City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments and places of employment. The City Council further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City Council hereby declares that the purpose of this Section is to preserve and improve the health, comfort and environment of the people of this City by limiting exposure to tobacco smoke. (Ord. 788, 2006)

Sec. 8-11-20. Definitions.

As used in this Article, unless the context otherwise requires:

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

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

Employee means any person who:

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

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

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

Entryway means the outside of any doorway leading into a building or facility that is not exempted from this Section or under Section 25-14-205, C.R.S. *Entryway* also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be fifteen (15) feet.

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

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

Indoor area means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area. For the purpose of this Article, *indoor area* shall include all public seating areas in Ski Hi Park, whether covered or uncovered, as well as the seating area of any temporary or permanent structure for public events.

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

Public building means any building owned or operated by:

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

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

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

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

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

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

Work area means an area in a place of employment where one (1) or more employees are routinely assigned and perform services for or on behalf of their employer. (Ord. 788, 2006)

Sec. 8-11-30. General smoking restrictions.

Except as provided in Section 8-11-40 below, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including but not limited to:

- (1) Public meeting places.
- (2) Elevators.
- (3) Grocery stores.
- (4) Gymnasiums.
- (5) City Hall.

(6) Child day care facilities.

(7) Health care facilities, including hospitals, health care clinics, doctor's offices and other health care-related facilities.

(8) Any place of employment that is not exempted.

(9) In the case of employers who own facilities otherwise exempted from this Article, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

(10) Food service establishments.

(11) Bars.

(12) Indoor sports arenas.

(13) Restrooms, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities.

(14) Restrooms, lobbies, hallways and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests.

(15) Bowling alleys.

(16) Billiard or pool halls.

(17) Facilities in which games of chance are conducted.

(18) The common areas of retirement facilities, publicly owned housing facilities and nursing homes, not including any resident's private residential quarters.

(19) Public buildings.

(20) Auditoriums.

(21) Theaters.

(22) Museums.

(23) Libraries.

(24) Public and nonpublic schools, other educational and vocational institutions and the entryways of all such buildings and facilities. (Ord. 788, 2006)

Sec. 8-11-40. Exceptions.

This Article shall not apply to:

(1) Private homes, private residences and private automobiles; except that this Article shall apply if any such home, residence or vehicle is being used for child care or day care, or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.

(2) Limousines under private hire.

(3) A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%).

(4) Any retail tobacco business.

(5) The outdoor area of any business subject to the definition of entryway as set forth in Section 8-11-20 above.

(6) A place of employment that is not open to the public and that is under the control of an employer which employs three (3) or fewer employees. (Ord. 788, 2006; Ord. 811 §1, 2009)

Sec. 8-11-50. Optional prohibitions.

(a) The owner or manager of any place not specifically listed in Section 8-11-30 above, including a place otherwise exempted under Section 8-11-40, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Article.

(b) If the owner or manager of a place not specifically listed in Section 8-11-30, including a place otherwise exempted under Section 8-11-40, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Paragraph 8-11-30(9), the owner or manager shall post a sign or signs in the smoke-free work area as provided in Subsection (a) above. (Ord. 788, 2006)

Sec. 8-11-60. Local regulations authorized.

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law. (Ord. 788, 2006)

Sec. 8-11-70. Penalty.

Any person who is convicted of a violation of the provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 788, 2006; Ord. 811 §1, 2009)

ARTICLE 12

Fireworks

Sec. 8-12-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Fireworks shall mean any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges (unless used for athletic events), firecrackers, torpedoes, skyrockets, rockets, Roman candles, Day-Glo bombs and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term *fireworks* does not include:

- a. Toy caps which do not contain more than .025 of a grain of explosive compound, per cap.
- b. Sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices and novelty auto alarms.
- c. Highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices. (Prior code 8-76)

Sec. 8-12-20. Unlawful to sell or use certain types.

Except as provided in Sections 8-12-30 and 8-12-40 below, it shall be unlawful in the City for any person to offer for sale, expose for sale, sell or have in his or her possession with the intent to offer for sale, sell, use or explode any fireworks. Such definition of *fireworks* shall not include those "Class C" devices properly excludable under Section 8-12-10 above; however, it shall include such "Class C" devices as properly fall under Section 8-12-10. (Prior code 8-77)

Sec. 8-12-30. Permits for display.

The City Council has the power to grant permits within the City for supervised public displays of "Class B" and "Class C" (AT&F Federal Agency Classification) fireworks by the City, fair associations, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing to the City Manager at least fifteen (15) days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator and the location and handling of the display shall be approved, after investigation, by the Chief for the Fire District of the City. No such permit shall be transferable or assignable. (Prior code 8-78)

Sec. 8-12-40. Bond.

The City Manager shall require a performance bond from the permittee in a sum not less than one thousand dollars (\$1,000.00), conditioned on compliance with the provisions of this Article, and adequate liability insurance as determined by the City Council, unless the permittee is the City, in-which case no bond is required. (Prior code 8-79)

Sec. 8-12-50. Sale for display.

No person shall sell or offer to sell at retail any fireworks which are to be used for display purposes within the City until he or she first obtains a license to do so from the Secretary of State and from the City

at which sales are to be made. Any such license shall be valid for a period of twelve (12) months from the date of issuance, and a fee for a license to sell display fireworks at retail shall be determined and collected pursuant to resolution duly adopted by the City Council. (Prior code 8-80)

Sec. 8-12-60. Seizure.

The Police Department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Article. (Prior code 8-81)

Sec. 8-12-70. Toy propellant devices used for model or educational rockets.

Nothing in this Article shall prevent or regulate the manufacture, sale, use or possession of educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant when such engine or model cartridge is designed to be ignited by electrical means. (Prior code 8-82)

Sec. 8-12-80. Possession of fireworks.

It is unlawful for any person to exhibit or have in his or her possession, with intent to give away or sell or offer for sale within the City, any fireworks, torpedoes or firecrackers. (Prior code 8-84)

Sec. 8-12-90. Exploding fireworks.

It is unlawful for any person to set off, ignite or cause to be exploded within the City any firecrackers, fireworks or other explosives of any kind or description, or any device or contrivance containing gunpowder or other explosive material. (Prior code 8-85)

Sec. 8-12-100. Penalty for violations.

Any person who violates any of the provisions of this Article, upon conviction thereof, shall be punished by revocation of any license or permit issued hereunder if a license or permit has been issued to such person, and in accordance with the provisions of Section 1-4-20 of this Code. Each day of sale prohibited under this Article shall be deemed a separate offense. Penalties under this Section may be imposed consecutively. (Prior code 8-83)

ARTICLE 13

Weapons

Sec. 8-13-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Ballistic knife means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

Blackjack means and includes any billy, sand club, sandbag, sap 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, of a strap or springy shaft which increases the force of impact, or any device or article consisting of two (2) or more separate portions, linked together by a chain, strap or other fastener, which configuration is designed to increase the striking force or impact of the device or article.

Conceal means the deliberate hiding of a weapon upon or near the person with the intent to avoid the lawful detection thereof. It shall be evidence of concealment that the weapon is hidden in such manner as to make it immediately available for use in the fashion in which the weapon is designed to be used.

Crossbow means and includes any device resembling a rifle or handgun in configuration, having a bow or similar device mounted perpendicularly to a stock, grip or frame, and usually equipped with a winch or similar device which draws back the bowstring and cocks the weapon, and which fires an arrow, bolt, quarrel, stone or similar shaft from a groove or depression in the stock, grip or frame by the manipulation of a trigger or similar mechanism.

Firearm means and includes any pistol, revolver, self-loading pistol, rifle, shotgun or any other device designed to shoot, project, throw or hurl a projectile by means of the explosion of gunpowder or other explosive substance.

Gravity knife means and includes any knife, the blade of which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force, and which blade, upon release, becomes locked in place by means of a button, spring, plate, lever or other device.

Knife means and includes any dagger, knife, bayonet, straight razor, dirk, machete, stiletto, sword or sword cane with a blade over three and one-half (3½) inches in length, or any other dangerous instrument designed to inflict cutting, stabbing or tearing wounds; but, as used in this Section, does not include a knife or hatchet of the type customarily used in hunting, fishing or camping, when such is being carried for sporting use, and does not include any instrument being used in pursuance of a lawful trade, occupation or profession, or otherwise lawful under federal or state statutes, used as an item of display or a collector's item in any home or place of business.

Switchblade knife means and includes any knife, the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle. (Ord. 775 §11.201, 2005; Ord. 791 §11.201, 2007)

Sec. 8-13-20. Discharge of firearms.

It is unlawful for any person, other than a peace officer or a member of the Armed Forces of the United States or the Colorado National Guard, acting in lawful discharge of his or her duties, to discharge or cause to be discharged any firearm within or into the limits of the City; provided, however, that this Section shall not apply to persons discharging firearms in shooting galleries or at shooting ranges, where the firearms may be discharged so as not to endanger persons or property and the projectiles from the firearms are prevented from traversing any grounds or space outside the limits of the gallery or range, or to the discharge of a firearm in lawful defense of person or property. (Ord. 775 §11.202, 2005; Ord. 791 §11.202, 2007)

Sec. 8-13-30. Illegal weapons.

(a) It is unlawful for any person to knowingly carry in his or her possession, conceal or cause to be concealed in any vehicle, or to use, any blackjack, gravity knife, multi-fixed bladed stellate, throwing knife, switchblade knife or brass or metallic knuckles.

(b) Nothing in this Section shall apply to peace officers or to members of the Armed Forces of the United States or the Colorado National Guard acting in the lawful discharge of their duties. (Ord. 775 §11.203, 2005; Ord. 791 §11.203, 2007)

Sec. 8-13-40. Concealed weapons.

(a) It is unlawful for any person to knowingly carry a knife, firearm or other dangerous weapon otherwise legal under federal and state statutes concealed on or about his or her person; provided, however, that this Section shall not apply to persons in their own domiciles or places of business, on property owned or under their control at the time of the act of carrying, or to persons in private automobiles or other private means of conveyance, who are carrying a weapon for the lawful protection of their or another's or other's person or property, or for any legal purpose.

(b) It is unlawful for any person to, without legal authority, carry, bring or have in his or her possession a deadly weapon, as defined in Subsection 8-13-50(b) below, in or on the real estate and all improvements erected thereon of any public or private elementary or secondary school or any public or private college, university or seminary, except for the purpose of presenting an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class, for the purpose of carrying out the necessary duties and functions of an employee of an educational institution which require the use of a deadly weapon, or for the purpose of participation in an authorized extracurricular activity or athletic team. This Subsection shall not apply to any unloaded weapon which remains inside a motor vehicle while upon the real estate of any public or private elementary or secondary school or any public or private college, university or seminary. This Subsection shall not apply to any person who is lawfully hunting upon any public land in the State so long as such person is not hunting in the immediate area where the facilities of any educational institution are located.

(c) Nothing in this Section shall apply to peace officers or members of the Armed Forces of the United States or Colorado National Guard acting in the lawful discharge of their duties.

(d) Nothing in this Section shall apply to persons who possess a valid permit or license to conceal such weapon, which license or permit was duly issued pursuant to applicable state or federal law. (Ord. 775 §11.204, 2005; Ord. 791 §11.204, 2007; Ord. 811 §1, 2009)

Sec. 8-13-50. Displaying, flourishing or brandishing deadly weapon.

(a) It is unlawful for any person to display, brandish or flourish a deadly weapon in a public place in a manner calculated to alarm, or for any person to intentionally and unlawfully aim or point a firearm at another person; provided, however, that the provisions of this Section shall not apply to any situation that constitutes a felony under state law.

(b) As used in this Article, *deadly weapon* includes, but is not necessarily limited to, firearms, knives, hatchets and dangerous clubs.

(c) Nothing contained in this Section shall apply to peace officers or members of the Colorado National Guard or Armed Forces of the United States acting in lawful discharge of their duties. (Ord. 775 §11.205, 2005; Ord. 791 §11.205, 2007)

Sec. 8-13-60. Weapons where vinous, spirituous or malt beverages sold.

(a) It is unlawful for any person to carry, conceal or display any dangerous or deadly weapon while the person is on the premises of any establishment where malt, vinous or spirituous liquors are sold for consumption on the premises.

(b) The provisions of this Section shall not apply to peace officers or any other person duly licensed or authorized under applicable state or federal law to carry the weapon concealed, or to persons carrying such weapons in their place of business or having control of the premises at the time of the act of carrying. (Ord. 775 §11.206, 2005; Ord. 791 §11.206, 2007)

Sec. 8-13-70. Disposition of confiscated weapons.

It is the duty of every police officer or agent, upon making any arrest and seizing a weapon carried or used in violation of any provisions of this Article, to keep and place the same in such place of safekeeping as may be directed by the Chief of Police until the final determination of the prosecution for the offense or any offense in the prosecution of which the weapon may be evidence. Upon entry of a final judgment of guilt, the Chief of Police shall make such disposition of the weapon as may be ordered by the Municipal Court or other court having jurisdiction, and, in the absence of an order, weapons shall be sold at auction for the benefit of the City fund or, in the case of illegal weapons, shall be destroyed. (Ord. 775 §11.207, 2005; Ord. 791 §11.207, 2007)

ARTICLE 14

Offenses Relating to Animals

Sec. 8-14-10. Animals creating noise.

It is unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the City animal shelter. (Ord. 811 §1, 2009)

Sec. 8-14-20. Cruelty to animals.

(a) Definitions. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

Abandon means 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.

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

Neglect means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and well-being consistent with the species, breed and type of animal.

Serious physical harm means any of the following:

a. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

b. Any physical harm that causes acute pain of duration that results in substantial suffering.

(b) A person commits cruelty to animals if he or she knowingly or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, carries or confines in or upon any vehicles in a cruel or reckless manner, otherwise mistreats or neglects any animal or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink or protection from the weather.

(c) Any person who intentionally abandons a dog or cat commits the offense of cruelty animals.

(d) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates or needlessly kills an animal.

(e) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates or needlessly kills an animal.

(f) A Police Officer or Code Enforcement Officer having authority to act under this Section may take possession of and impound an animal that the Police Officer or Code Enforcement Officer has probable cause to believe is a victim of a violation of Subsection (b) or (d) above or is a victim of a violation of Section 18-9-204, C.R.S., and, as a result of the violation, is endangered if it remains with the owner or custodian.

(g) Killing or injuring dogs. No person shall willfully poison, or cause to be poisoned, killed or disfigured, any dog within the City.

(h) Scope. Nothing in this Section shall be construed to amend or in any manner change the authority of the State Division of Wildlife or to prohibit any conduct authorized or permitted therein. (Prior code 3-4, 3-34; Ord. 775 §11.172, 2005; Ord. 791 §11.172, 2007; Ord. 811 §1, 2009)

Sec. 8-14-30. Animal fighting.

(a) No person shall cause, sponsor, arrange, hold or encourage a fight between animals for the purpose of monetary gain or entertainment.

(b) For the purposes of this Section, a person encourages a fight between animals for the purpose of monetary gain or entertainment if he or she:

- (1) Is knowingly present at or wagers on such a fight.
 - (2) Owns, trains, transports, possesses or equips an animal with the intent that such animal will be engaged in such a fight.
 - (3) Knowingly allows any such fight to occur on property owned or controlled by him or her.
 - (4) Knowingly allows any animal used for such a fight to be kept, boarded or housed at, trained on or transported in any property owned or controlled by him or her.
 - (5) Knowingly uses any means of communication for the purpose of promoting such a fight.
 - (6) Knowingly possesses any animal used for such a fight or any device intended to enhance the animal's fighting ability.
- (c) Nothing in this Section shall be construed to prohibit normal, approved hunting practices, the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law. (Prior code 3-5)

CHAPTER 9

Streets, Sidewalks and Public Property

Article 1 In General

- Sec. 9-1-10 Obstructions generally
- Sec. 9-1-20 Restricted use of motorcycles, mopeds, bicycles, skateboards, roller skates, rollerblades, roller skis, coasters, skis, sleds, toboggans, toy vehicles, children's tricycles and similar devices
- Sec. 9-1-30 Repair of right-of-way

Article 2 Sidewalks

Division 1 Standards and Specifications

- Sec. 9-2-10 Definitions
- Sec. 9-2-20 Sidewalk construction
- Sec. 9-2-30 Width specifications
- Sec. 9-2-40 Curblin specifications
- Sec. 9-2-50 Tree line specifications
- Sec. 9-2-60 Utility line specifications
- Sec. 9-2-70 Grade

Division 2 Construction

- Sec. 9-2-210 Notice, time limit, lien
- Sec. 9-2-220 Notice, cost assessment
- Sec. 9-2-230 Cost assessment, collection
- Sec. 9-2-240 Repair; owner responsibility

Article 3 Trees and Shrubbery

- Sec. 9-3-10 Maintenance of trees and shrubbery on public rights-of-way
- Sec. 9-3-20 Prohibited trees
- Sec. 9-3-30 Trees and limbs in public right-of-way
- Sec. 9-3-40 Removal or treatment of infected trees and shrubs
- Sec. 9-3-50 Control of trees and shrubs
- Sec. 9-3-60 Dangerous or hazardous conditions; removal of nonhazardous trees or shrubs; costs of removal
- Sec. 9-3-70 Trees creating obstructions; dangerous trees
- Sec. 9-3-80 Hedges and shrubbery adjacent to sidewalks
- Sec. 9-3-90 Appeals
- Sec. 9-3-100 License required to prune or remove trees
- Sec. 9-3-110 License administration
- Sec. 9-3-120 Destroying trees prohibited
- Sec. 9-3-130 Street tree plan and permits
- Sec. 9-3-140 Violations
- Sec. 9-3-150 Penalty

Article 4 House Numbers

- Sec. 9-4-10 Conformance required
- Sec. 9-4-20 Procedure
- Sec. 9-4-30 Assignment, certificate
- Sec. 9-4-40 Unofficial numbering prohibited
- Sec. 9-4-50 Posting required
- Sec. 9-4-60 Specifications
- Sec. 9-4-70 City sections; number designation
- Sec. 9-4-80 Adjustment of numbers

Sec. 9-4-90 Maps

Article 5 Monte Vista Municipal Airport

Sec. 9-5-10 Purpose

Sec. 9-5-20 Management and control

Sec. 9-5-30 Rules and regulations

Sec. 9-5-40 Violation and penalty

Article 6 Excavations

Sec. 9-6-10 Standards, regulations and specifications

Sec. 9-6-20 Reporting

Sec. 9-6-30 Penalties

ARTICLE 1

In General

Sec. 9-1-10. Obstructions generally.

(a) No person shall encumber or obstruct any street, alley, sidewalk or other public place by placing therein or thereon any article or other thing whatsoever, except for the necessary time of passing along or over the same, nor by leaving standing overnight any vehicle, except that the City Manager or Public Works Director may permit the extended use or temporary obstruction of any street, alley, sidewalk or other public place, including the placing thereon of any article or thing for the purpose and for the period of time stated in the permit or motion.

(b) Owners, occupants, builders, contractors or other persons engaged in the construction or repair of buildings or other structures may occupy for a reasonable time one-third ($\frac{1}{3}$) of the street in front of the premises, but shall, as soon as practicable, remove all rubbish, lumber, brick, stone or obstruction of any kind from the street without expense to the City. (Prior code 14-1; Ord. 811 §1, 2009)

Sec. 9-1-20. Restricted use of motorcycles, mopeds, bicycles, skateboards, roller skates, rollerblades, roller skis, coasters, skis, sleds, toboggans, toy vehicles, children's tricycles and similar devices.

(a) No person shall operate, drive or ride any moped, bicycle or skateboard on the public sidewalks of the City.

(b) No person riding upon any motorcycle, moped, bicycle, roller skates, rollerblade, skateboard, rollerski, ski, coaster, sled, toboggan, toy vehicle, child's tricycle or similar device shall attach the device or the person's self to any vehicle moving on a street. Neither shall any person drive a vehicle on a street while he or she knows or reasonably should know that acts in violation of this Section are occurring with respect thereto. (Prior code 14-2; Ord. 811 §1, 2009)

Sec. 9-1-30. Repair of right-of-way.

The owner, possessor or user of all irrigating canals, ditches and laterals that have been or shall be constructed, deepened, widened or enlarged in or across any public street, alley or highway of the City shall restore such street, alley or highway so as not to materially impair its usefulness and shall thereafter keep the same in repair. (Prior code 14-3)

ARTICLE 2

Sidewalks

Division 1 Standards and Specifications

Sec. 9-2-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Business walks means walks in front of or abutting lands used wholly or partially for business purposes.

Residential walks means all other walks except such as are designated in this Section as business walks. (Prior code 14-31)

Sec. 9-2-20. Sidewalk construction.

All sidewalks constructed in front of or abutting any lot, lots or lands in the City shall be constructed in accordance with Page 2, Section 41 of the City's 2005 Standard Construction Specifications. (Ord. 811 §1, 2009)

Sec. 9-2-30. Width specifications.

(a) All business sidewalks shall be ten (10) feet wide extending from the outer edge of the lot line toward the center of the street. All walks on First Avenue between Jefferson and Broadway and all walks on Adams Street north of Second Avenue are designated as business walks.

(b) All sidewalks on First Avenue between Broadway and Bronk Street; all sidewalks on Second Avenue from Jefferson to Dennis Street; all sidewalks on Adams Street between Second and Third Avenues; all sidewalks on Broadway north of Fourth Avenue; and all sidewalks on Washington Street north of Second Avenue, together with such other walks of which the width and location thereof shall be designated by the City Council, shall be residential walks and shall be five (5) feet wide with the inner edge eight (8) inches from the outer edge of the lot line.

(c) All other sidewalks on residential streets in the City south of the main line of the Denver and Rio Grande Railroad shall be five (5) feet wide with the inner edge of the walk eight (8) inches from the outer edge of the lot line; provided that, upon petition in writing, signed by two-thirds ($\frac{2}{3}$) of the owners of property abutting any street where concrete walks have not been constructed, the City Council may by resolution change the location of the walks thereof to conform to the desire of the property owners; and provided further that all business and residential walks respectively shall be uniform as to width in the same block; and provided further that, when any property is changed in condition of use from vacant or residential to business use, the abutting sidewalk shall, upon notice from the City Manager or Public Works Director, at once be made to conform to all the specifications for the business walks of its block. If such change is not made, the City Manager or Public Works Director may have the walk or walks

changed and collect therefor in the same manner and for a proportionate amount as for original construction. (Prior code 14-43, Ord. 811 §1, 2009)

Sec. 9-2-40. Curblin specifications.

(a) The curblin on the residential portions of First, Second, Third and Fourth Avenues and all sixty-foot streets shall be fifteen (15) feet from the lot line.

(b) The curblin on Broadway shall be twenty-five (25) feet from the lot line.

(c) The curblin on Washington Street from Second Avenue north and on Adams Street from Second to Third Avenue shall be ten (10) feet from the lot line.

(d) The curblin on all other residential streets and avenues shall be twenty (20) feet from the lot line. (Prior code 14-44)

Sec. 9-2-50. Tree line specifications.

(a) The tree line shall remain as the trees currently exist, but all tree lines set on First, Second, Third and Fourth Avenues shall be twelve (12) feet from the lot line.

(b) The tree line on Broadway shall remain as the trees currently exist.

(c) On all other streets and avenues the inner tree line shall be twelve (12) feet from the lot line, and the outer tree line shall be seventeen (17) feet from the lot line, except that on sixty-foot streets there shall be no outer tree line; provided that the City Manager or Public Works Director may change by resolution the inner edge of the sidewalks on petition as designated in Section 9-2-30 above. (Prior code 14-45; Ord. 811 §1, 2009)

Sec. 9-2-60. Utility line specifications.

The line for electric light, telephone and telegraph poles set on the residential streets of the City shall be one (1) foot, inside of the curblin, but the pole line may be changed on any street by resolution of the City Manager or Public Works Director; provided that the change in this Section shall not affect any walks already constructed or any action or cause of action that may have arisen under this Section before being amended. The provisions as to location of sidewalks and tree lines in that part of the City north of the Denver and Rio Grande main line shall remain unaffected by the amendments to this Section. (Prior code 14-46; Ord. 811 §1, 2009)

Sec. 9-2-70. Grade.

(a) All sidewalks shall conform to the established grade to be furnished by the City Manager or Public Works Director and shall be constructed under the supervision of a representative or inspector appointed by the City Council who shall have power to compel strict compliance with the terms and specifications of this Division.

(b) All sidewalks shall be constructed in a first-class workmanlike manner, and in all matters of detail wherein this Section is silent, they shall be constructed in accordance with the directions of the inspector representing the City Council. (Prior code 14-47; Ord. 811 §1, 2009)

Division 2
Construction

Sec. 9-2-210. Notice, time limit, lien.

(a) As it deems necessary, The City Council shall order by resolution the condemnation, construction, building, repairing or extension of the sidewalk on any street or portion of street. When ordered to be extended, built or repaired, the sidewalk shall be constructed in a manner and form provided by this Article.

(b) The City Council shall cause notice to be given to the owner of the lot or land in front of which the sidewalk is to be extended, built or repaired. The notice shall state the dimensions of the sidewalk to be constructed and a description of the land where it is to be made, and shall be served upon the owner of the lot or land fifteen (15) days before the time when the construction of the sidewalk is to be commenced, if served within the City.

(c) If the owner of the lot or land cannot be found within the City, he or she will have thirty (30) days' notice which shall be sent to him or her by certified mail addressed to his or her last known post office address; and such notice shall also be served upon the occupant of the lot or land if it is occupied.

(d) At the expiration of the fifteen (15) and thirty (30) days' notice, respectively, if the sidewalk has not been extended, built or repaired according to the provisions of this Article by the owner of the lot or land, the City Council shall cause the sidewalk to be made at the expense of the owner of the lot or land and the same shall be a charge or lien upon the lot or land in front of which the sidewalks are to be made, to be collected as provided by law. (Prior code 14-61, Ord. 811 §1, 2009)

Sec. 9-2-220. Notice, cost assessment.

(a) Whenever a sidewalk has been constructed in accordance with the provisions of this Article or repaired by the City, the City Council shall assess by resolution the costs of the sidewalk with ten percent (10%) of the amount as penalty thereon to the lot or land abutting the sidewalk constructed.

(b) After the assessment has been made, the City Clerk shall give to the owner or owners of the lots ten (10) days' written notice of the same, which notice shall be personally served if the owner can be found within the City. Such notice shall also be published in a newspaper published in the City and shall contain the cost of the improvement and a description of the lands or lots upon which the cost is assessed and a date at which a special or regular meeting of the City Council will be held. The notice shall request the owner of the lot or land to appear before the City Council at such time for the purpose of making such objections as he or she may have to the justness and correctness of the amount assessed.

(c) If the owner is not found within the City, the notice shall also be further served upon him or her by sending a copy of the notice by certified mail to his or her last known post office address. (Prior code 14-62, Ord. 811 §1, 2009)

Sec. 9-2-230. Cost assessment, collection.

(a) If the charges assessed pursuant to Section 9-2-220 above are not paid by the owner or owners within thirty (30) days after the time of the hearing provided for in Section 9-2-220, it may be certified by

the City Clerk to the County Treasurer who shall collect the assessment, together with a ten-percent penalty for cost of collection, in the same manner as other taxes are collected.

(b) The laws of the State for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of the assessments. (Prior code 14-63)

Sec. 9-2-240. Repair; owner responsibility.

(a) All sidewalks shall be kept in repair by the abutting property owners.

(b) If, through the failure, negligence or refusal of any property owner to keep the sidewalk in front of his or her premises in repair, anyone is injured and the City incurs any liability therefor, the City has a right to recover from the property owner the amount of any judgment and cost it may be required to pay on account of such negligence or failure. (Prior code 14-64)

ARTICLE 3

Trees and Shrubbery

Sec. 9-3-10. Maintenance of trees and shrubbery on public rights-of-way.

The purpose of this Article is to provide for the planting, maintenance and demolition of trees and shrubs on public rights-of-way. This Article provides for a controlled plan and consistent tree and shrub care program on and adjacent to public rights-of-way, and upon private property where diseased plants or the growth of certain plants, trees or shrubs may endanger or become a nuisance to public and private property within the City. (Prior code 14-86; Ord. 811 §1, 2009)

Sec. 9-3-20. Prohibited trees.

(a) It is unlawful and deemed a nuisance to sell or import into the City or plant or cause to be planted within the City limits any female box-elder tree (*Acer negundo*), female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable trees or shrubs as designated by ordinance upon any property within the City, and the planting or setting out of such trees and shrubs is declared to be a menace to public health, safety and welfare and a public nuisance.

(b) The owner of any property within the City, upon which any tree listed in Subsection (a) above has been planted after _____, 2009, the effective date of the initial ordinance codified herein, 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 tree as required in Subsection (b) above, the City shall cut and remove such tree. (Ord. 811 §1, 2009)

Sec. 9-3-30. Trees and limbs in public right-of-way.

It shall be the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located upon the owner's property or from the street curb line to the owner's property when

such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a danger to public safety shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value. Nothing contained in this Paragraph shall be construed to obligate a property owner adjacent to a public right-of-way to remove or maintain trees or shrubbery which are located on a City right-of-way, owned by the City and extend into or above the street curb line of a City street or alley. (Ord. 811 §1, 2009)

Sec. 9-3-40. Removal or treatment of infected trees and shrubs.

The Parks and Recreation Director may inspect all trees and shrubs upon any property within the City. Upon discovering any such plant material to be infested with any serious disease or insects detrimental to the growth, health and life of such plants or adjoining plants, or upon discovering any plant material dangerous or detrimental to existing trees and shrubbery within the City, the Parks and Recreation Director shall notify the owner, agent, or occupant of such property in writing at once. Such notification shall designate the location of the property where the disease or insect infestation exists, shall describe the conditions thereof and may direct such owner, agent or occupant to remove and destroy or otherwise treat these plant materials. If the owner, agent or occupant fails to comply with the written notification within the time specified by the Parks and Recreation Director, the City may correct such condition and assess the cost of such correction to the owner, agent or occupant. In the case of detection of Dutch Elm disease, a period of at least thirty (30) days shall be allowed for the removal of standing trees. If such Dutch Elm disease is detected in dead or downed wood, the wood shall be removed immediately. (Prior code 14-86)

Sec. 9-3-50. Control of trees and shrubs.

(a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the City are hereby declared a nuisance.

(b) The City shall give written notice to the owner or occupant of any property abutting City rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The City shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.

(c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the City, unless authorized or directed by the City.

(d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the City, except any person who notifies the City of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement. (Ord. 811 §1, 2009)

Sec. 9-3-60. Dangerous or hazardous conditions; removal of nonhazardous trees or shrubs; costs of removal.

Owners of property adjacent to City rights-of-way shall be responsible for notifying the City of any trees or shrubs creating dangerous or hazardous conditions upon the City rights-of-way. If the owner desires that nonhazardous trees or shrubs on City rights-of-way be removed by the City or by a private tree maintenance service, he or she shall first secure the written permission of the City prior to such removal and shall be responsible for the costs of such removal. The owner shall be responsible for replacing the removed tree with a tree in accordance with the street tree plan and approved in writing by the Tree Board. The Parks and Recreation Director shall determine whether such street trees or shrubs may be removed consistent with the City plan of street tree beautification. If the condition of such trees originating upon the City right-of-way is deemed to be hazardous or dangerous by the Parks and Recreation Director, then such removal shall be at the City's expense. (Prior code 14-86)

Sec. 9-3-70. Trees creating obstructions; dangerous trees.

Any tree growing over a public alley, street or highway, or so located as to extend its branches over a public alley, street or highway, shall be trimmed by the owner of the private property or his or her agent on which the tree stands, so that there shall be a clear height of fourteen (14) feet above the surface of the street, alley or highway and eight (8) feet above the surface of the sidewalks unobstructed by the branches. Such tree trimming shall be in compliance with the City's rules and regulations. Such owner or agent shall remove all dead branches and stubs on such tree which are or may become a menace to travelers on public highways, streets or alleys of the City. Trees whose roots are causing upraised sidewalk slabs are declared a nuisance. If a tree or its parts in any other way cause a hindrance to the general public or in any way endanger the security or usefulness of any public street, highway or alley, it is hereby declared to be a public nuisance. The owner of such property shall either be responsible for replacement of such sidewalk or shall apply for the City Sidewalk Replacement Program with appropriate sharing of costs and shall be responsible for having his or her name added to the City Sidewalk Replacement Program. If the owner of such private property does not correct or remove such nuisances within a reasonable time after written notification by the Parks and Recreation Director, he or she shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner of such property. Apples and other tree debris from trees on public rights-of-way shall be removed by the adjacent property owner within twenty-four (24) hours. (Prior code 14-86; Ord. 811 §1, 2009)

Sec. 9-3-80. Hedges and shrubbery adjacent to sidewalks.

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of such hedges or shrubbery shall extend over any part of a public sidewalk of the City. (Prior code 14-86)

Sec. 9-3-90. Appeals.

Appeals from orders, actions, or determinations made pursuant to this Article may be made by first presenting the appeal to the City Manager within ten (10) days from the date of such order, action or determination. If such appeal to the City Manager fails to resolve the issue, then a written appeal may be thereafter filed with the City Clerk within twenty (20) days of such determination by the City Manager, and the City Clerk shall thereupon place such appeal on the agenda of the next regular meeting of the City

Council for determination, unless another date is mutually agreed upon. (Prior code 14-86; Ord. 811 §1, 2009)

Sec. 9-3-100. License required to prune or remove trees.

It shall be unlawful for any person to engage in the business, within the City, of cutting, trimming, pruning or removing trees or shrubs for compensation without having first procured a trimmer's license from the City Clerk. Such a license shall be issued in the name of an individual person, firm or corporation, or any person employed by the person, firm or corporation to engage in the business of cutting, trimming, pruning or removing trees or shrubs within the City. An application for the license required by this Section shall contain the name of the person making such application and the business address for such application if the mailing address varies from the business address. The application shall also require a summary of the experience and training, if any, that the applicant has had in the cutting, trimming, pruning or removing of trees or shrubs, as well as a summary, number and identification of persons employed by the applicant and at least three (3) references from former places of employment for the applicant, if any. If the applicant has not been previously employed in the business of cutting, trimming, pruning or removing trees or shrubs, a practical test may be given prior to certification by the Parks and Recreation Director. In the case of application by firms or corporations, the on-the-ground crew leader must be approved by the Parks and Recreation Director. Such approval will be based on the experience of the crew leader or by examination at the discretion of the Parks and Recreation Director or the City Manager, before the City Clerk issues a license. (Prior code 14-86)

Sec. 9-3-110. License administration.

The City Clerk, prior to granting a license, shall collect a fee for an amount currently in effect as set by the City Council. This is an annual fee and will not be prorated for periods of less than one (1) year. The license will include, as a minimum, the following:

- (1) Name and address of the licensee;
- (2) Date of issue and expiration;
- (3) Brief description of the activities covered by the license;
- (4) A statement that the license is nontransferable;
- (5) A statement that an employee certified by the City to prune, cut, trim, and remove trees and shrubs is required to be within each crew working in the City; and
- (6) Certification by the City Clerk that insurance is in effect for the period of the license in the amounts required by the City, with coverage for personal injury and property damage, and that the City is an additional insured on such policies. (Prior code 14-86)

Sec. 9-3-120. Destroying trees prohibited.

Destroying street trees is prohibited. No person shall break, cut, mar, injure or destroy any shade or ornamental tree or shrubbery growing, standing, or being in or upon any street, alley or other public place. (Prior code 14-86)

Sec. 9-3-130. Street tree plan and permits.

The City Manager, through the Parks and Recreation Director and with the advice and recommendations of the Tree Board, shall cause to be prepared a street tree plan for all public streets or other publicly owned places within the City. The plan shall be updated periodically in accordance with current knowledge about plant materials and their ability to survive under varying conditions. (Prior code 14-86)

Sec. 9-3-140. Violations.

It shall be unlawful for any person to prune, trim, plant, remove or replace any tree or shrub on any public property or within the public right-of-way which is not in conformity with the street tree plan and without having first obtained a permit for such activity from the Parks and Recreation Director. Such permits shall be requested by written application which shall specifically describe the work to be done and the location thereof. No charge shall be made for any permit or for the processing of any application requesting a permit. All tree planting, maintenance and removal practices shall follow professional agricultural standards. (Prior code 14-86; Ord. 811 §1, 2009)

Sec. 9-3-150. Penalty.

Any person violating or failing to comply with any of the provisions of this Section shall, upon conviction therefor, be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 14-86; Ord. 811 §1, 2009)

ARTICLE 4

House Numbers

Sec. 9-4-10. Conformance required.

It is the duty of every owner, agent or person in possession of every building in the City to number it in the manner provided in this Article. (Prior code 14-106)

Sec. 9-4-20. Procedure.

While one hundred (100) numbers are allotted to each block, the divisions of numbers to the frontage thereof shall be one (1) number to each twelve and one-half (12½) feet, or such other aliquot part of a lot or block frontage as shall, in the judgment of the City Manager or Public Works Director, be deemed most advisable. This procedure is intended to preserve as nearly as possible a general uniformity in numbering throughout the City. (Prior code 14-107; Ord. 811 §1, 2009)

Sec. 9-4-30. Assignment, certificate.

(a) The City Manager or Public Works Director shall assign to each house within the City its proper number.

(b) The City Clerk shall, upon application, deliver free of charge to the owner or occupant thereof a certificate designating the number. (Prior code 14-108; Ord. 811 §1, 2009)

Sec. 9-4-40. Unofficial numbering prohibited.

(a) It is the duty of every owner and occupant of every building, and the agents of all owners of buildings upon all of the streets and other public ways of the City, to number their buildings in accordance with this Article.

(b) It is unlawful for any owner, occupant or agent to retain, use, or permit to remain upon any building any number other than the number officially designated by this Article for the building. (Prior code 14-109)

Sec. 9-4-50. Posting required.

It is the duty of every owner, occupant or agent, upon notice of the City Manager or Public Works Director, to have the official number placed on each building owned or occupied by such owner or occupant, or for which such agency may exist. Such numbering shall be done in the manner required in this Article, within thirty (30) days after the service of the notice provided for in Section 9-4-30 above. (Prior code 14-110; Ord. 811 §1, 2009)

Sec. 9-4-60. Specifications.

(a) All numbers required by this Article shall be of some metallic substance or porcelain, or may consist of lettering on the inside of a glass transom, window or door, and shall be distinctly legible and at least three (3) inches in length.

(b) All metallic or porcelain figures shall be posted conspicuously over or upon the front door of the building to which the same are to be attached. (Prior code 14-111)

Sec. 9-4-70. City sections; number designation.

(a) In numbering the buildings on all of the streets running east and west, the half-section line in Section 36 in Township 39, north of Range Seven, E.N.M.M., shall be considered the meridian line.

(b) In numbering the buildings on streets running north and south, the half-section line running east and west through the middle of Section 31 in Township 39, north of Range Eight, E.N.M.M., shall be used as the base line.

(c) The buildings on the north side of all streets running east and west shall be given the odd numbers, and those on the south side shall be given even numbers. (Prior code 14-112)

Sec. 9-4-80. Adjustment of numbers.

In all cases of mistake or conflict in names or numbers, or where some especial arrangement is necessary in consequence of irregularity of streets or avenues, or want of uniformity in size of blocks, the Public Works Director shall direct and make the proper adjustment in accordance with the spirit and intention of this Article. (Prior code 14-113)

Sec. 9-4-90. Maps.

The City Engineer shall cause to be prepared from time to time maps of the several streets showing the numbers of the houses and buildings. (Prior code 14-114)

ARTICLE 5

Monte Vista Municipal Airport

Sec. 9-5-10. Purpose.

The City owns and operates an airport named and known as the Monte Vista Municipal Airport. The City Council has created an Airport Advisory Board in Chapter 2 of this Code for the management of the airport. The City needs to assert its control over the airport in order to properly regulate the functioning of the airport. (Prior code 14-136; Ord. 811 §1, 2009)

Sec. 9-5-20. Management and control.

- (a) The Municipal Airport shall be under the management and control of the City Manager.
- (b) The City Manager may enter into an agreement for the operation, management and maintenance of any airport property owned by the City under such terms and conditions as he or she deems appropriate. The City Manager shall issue licenses and enter into lease agreements as provided in this Section under such terms and conditions as he or she shall deem necessary.
- (c) All rules and regulations promulgated by the City Manager shall be in substantial conformance with the Federal Aviation Agency requirements and accepted airport operation practices.
- (d) If any provision of this Section or the application thereof to any person or circumstance is held to be invalid or unconstitutional, such invalidity shall not affect other provisions or applications of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable. (Prior code 14-138)

Sec. 9-5-30. Rules and regulations.

The City Manager shall establish, promulgate and enforce rules and regulations for the operation of the airport and all activities conducted thereon, and may establish and collect reasonable fees for any activities conducted thereon. Any regulations promulgated not in conflict with the provisions of this Article shall be enforced by the City Manager and the airport operator. Any violation of such regulations shall be reported to the City Manager, who may suspend or revoke privileges of any violator to the use of the airport facilities. Any rules or regulations promulgated by the City Manager shall be after consultation with the Airport Advisory Board and approved by resolution of the City Council. (Prior code 14-139)

Sec. 9-5-40. Violation and penalty.

- (a) It is unlawful for any person to conduct the following activities at, from or by use of any property of the airport without having obtained a license therefor:

- (1) Selling of fuel or fueling any aircraft.
- (2) Operating any aircraft for hire.
- (3) Maintaining, repairing, rebuilding or modifying any aircraft.
- (4) Conducting any operation involving aircraft for profit.
- (5) Conducting any operation from the airport facilities or property for profit.

(b) It shall be unlawful for any person to construct, maintain or make use of any structure upon the airport property for the purpose of housing any aircraft, aircraft parts, accessories, fuel or equipment without first having obtained a written lease therefor.

(c) It shall be unlawful to regularly operate, park, house or tie down any aircraft on the airport property without written permission of the City Manager or the airport operator. (Prior code 14-140; Ord. 811 §1, 2009)

ARTICLE 6

Excavations

Sec. 9-6-10. Standards, regulations and specifications.

The Public Works Department, in consultation with the City Manager and the Public Works Director, shall develop standards, regulations and specifications in accordance with Pages 28 and 29, 2005 Standard Construction Specifications adopted by the City governing access, utilization and restoration of all streets, alleys and rights-of-way within the corporate limits of the City, which standards, regulations and specifications shall not constitute a barrier to the use and excavation of City facilities, but shall preserve the integrity of the facilities at the least possible cost to City taxpayers. (Ord. 811 §1, 2009)

Sec. 9-6-20. Reporting.

The Public Works Director shall report to City Council the particulars of such regulations, specifications and standards as soon as possible, whereupon the same shall be adopted by the City Council. (Ord. 811 §1, 2009)

Sec. 9-6-30. Penalties.

Any person convicted of violating the provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 811 §1, 2009)

CHAPTER 10

Utilities

Article 1 General Provisions

- Sec. 10-1-10 Purpose
- Sec. 10-1-20 Penalty provision
- Sec. 10-1-30 Wastewater utility rules and regulations

Article 2 Fees, Charges and Billing Procedure

- Sec. 10-2-10 Rates and charges generally
- Sec. 10-2-20 Establishment of charges; liability for payment
- Sec. 10-2-30 Services determined municipal benefit
- Sec. 10-2-40 Fees and charges consolidated
- Sec. 10-2-50 Liens imposed
- Sec. 10-2-60 Billing procedure
- Sec. 10-2-70 Delinquent accounts; arrears penalty; service discontinuance
- Sec. 10-2-80 Rates
- Sec. 10-2-90 Adjustments
- Sec. 10-2-100 Funds

Article 3 Water Service

- Sec. 10-3-10 Permit required
- Sec. 10-3-20 Tapping fees
- Sec. 10-3-30 Owner responsibility
- Sec. 10-3-40 Separate taps required
- Sec. 10-3-50 Water meters required
- Sec. 10-3-60 Meters required upon transfer of property
- Sec. 10-3-70 Opening and closing valves
- Sec. 10-3-80 Water taps outside City
- Sec. 10-3-90 Wasting of water prohibited
- Sec. 10-3-100 Water service tap; installation, specifications
- Sec. 10-3-110 Specifications for connections
- Sec. 10-3-120 Tampering prohibited
- Sec. 10-3-130 Obstructing fire hydrant prohibited
- Sec. 10-3-140 Sprinkling restrictions

Article 4 Cross-Connection Control

- Sec. 10-4-10 Purpose
- Sec. 10-4-20 Responsibility
- Sec. 10-4-30 Definitions
- Sec. 10-4-40 Water system requirements
- Sec. 10-4-50 Policy

Article 5 Garbage and Refuse

- Sec. 10-5-10 Authority of City generally; vehicle inspection
- Sec. 10-5-20 Containers required
- Sec. 10-5-30 Deposit of garbage, rubbish and trash
- Sec. 10-5-40 Schedule and change
- Sec. 10-5-50 Collection schedule
- Sec. 10-5-60 Collection points
- Sec. 10-5-70 Permit required for private collectors; fee

Article 6 Sewer Activity Enterprise

- Sec. 10-6-10 Established
- Sec. 10-6-20 Governing body
- Sec. 10-6-30 Maintenance of status
- Sec. 10-6-40 Issuance of bonds

Appendix

- Appx. 10-A Wastewater Utility Rules and Regulations
- Appx. 10-B Utility Rates and Charges

ARTICLE 1

General Provisions

Sec. 10-1-10. Purpose.

The City is in need of formal rules, regulations and policies governing certain City services, including water service, sewer service, storm drain and pest control services; and the City Council wishes to assure that City services are provided in an efficient and effective manner and that the charges for such services are fair and equitable. (Prior code 17-1; Ord. 811 §1, 2009)

Sec. 10-1-20. Penalty provision.

(a) It is unlawful for any person to violate any of the provisions in this Chapter or the rules, regulations and policies hereby adopted.

(b) Except as otherwise provided in Section 31-16-101, C.R.S., every person convicted of a violation of any provision of this Chapter or the regulations lawfully adopted by the City shall be punished pursuant to the provisions of Section 1-4-20 of this Code. (Prior code 17-2; Ord. 811 §1, 2009)

Sec. 10-1-30. Wastewater utility rules and regulations.

The "City of Monte Vista Wastewater Utility Rules and Regulations," is attached to this Chapter as Appendix 10-A and is made a part of this Code by reference. (Prior code 17-56; Ord. 811 §1, 2009)

ARTICLE 2

Fees, Charges and Billing Procedure

Sec. 10-2-10. Rates and charges generally.

Rates and charges for the connection with and use of the utility services described in Section 10-2-30 below are set forth in Appendix 10-B attached to this Chapter. (Prior code 17-96; Ord. 811 §1, 2009)

Sec. 10-2-20. Establishment of charges; liability for payment.

The City Council shall, by resolution, establish charges for connections and collection charges relating to water service, storm drain, sanitary sewer service and pest and insect control service, prescribe the time and manner of payment of such charges and adopt measures designed to enforce the payment thereof such as in its discretion are necessary or desirable. Such rates and charges are set forth in Appendix 10-B attached to this Chapter. Utility service charges shall be due and payable as long as a house or business is connected to the service regardless of whether it is vacant or occupied. Such service charges shall continue to be charged on any unoccupied premises so long as any building or structure on the premises is connected to the City system. Service charges may be discontinued only for properties on which such buildings are torn down or removed from the premises. If any property owner requests his or her tap to be abandoned, the City will disconnect said tap upon payment of any applicable disconnect fee. Any reconnection of said tap shall necessitate the payment of such new tap fee as may be applicable at the time of reconnection. (Prior code 17-97; Ord. 770, 2004; Ord. 811 §1, 2009)

Sec. 10-2-30. Services determined municipal benefit.

The City Council finds, determines and declares that the installation and operation of water mains, sewer lines and sanitary facilities, the collection and removal of garbage, trash, rubbish and waste materials, and the extermination of vermin, flies, mosquitoes and other insects in any portion of the City are, and each of them is, a direct and positive benefit to all inhabitants of and to all parts of the City, in proportion to the uses and occupancies of various classes of property in the City. (Prior code 17-98)

Sec. 10-2-40. Fees and charges consolidated.

The Finance Director is authorized and directed to consolidate all fees and charges for the services designated in Section 10-2-30 above, with the exception of any privatized removal of garbage, trash, rubbish and waste materials with any other City services, into one (1) account against each property or person served, or for which property or person such services are made and kept available. (Prior code 17-99; Ord. 770, 2004; Ord. 811 §1, 2009)

Sec. 10-2-50. Liens imposed.

All service charges of any kind and character, and for whatsoever purpose the same may be levied, shall constitute a perpetual lien upon any lots, lands, buildings, or premises served, or for which the service may be made and kept available. Payment of the charges may be enforced by any remedy or means provided by the state statutes or by this Code in such case made and provided. All such remedies are declared to be cumulative. (Prior code 17-100; Ord. 811 §1, 2009)

Sec. 10-2-60. Billing procedure.

All charges for City services designated in Section 10-2-30 above shall be computed on a monthly basis, and bills shall be mailed no later than the sixth day of each month. Such charges shall be due and payable on the twenty-fifth day of the month. (Prior code 17-101; Ord. 811 §1, 2009)

Sec. 10-2-70. Delinquent accounts; arrears penalty; service discontinuance.

(a) Accounts in arrears will be charged a penalty of two percent (2%) per month of the arrears amount. Services may be discontinued on accounts thirty (30) days in arrears.

(b) Pest control, storm drain fees and base fees for water and sewer service shall continue to be billed, despite water discontinuance and arrearages. All arrearages shall constitute a perpetual lien upon any lots, lands, buildings or premises served or for which the service may be made and kept available as otherwise described in this Code. (Ord. 770, 2004; Ord. 811 §1, 2009)

Sec. 10-2-80. Rates.

The City Council shall establish, by resolution, the fees and the rates to be charged for City water and sewer service and per EQR unit of rates for pest control, unmetered water and sewer, storm drainage and water and sewer tapping fees. Such schedule is attached as Appendix 10-B to this Chapter and incorporated herein by reference. (Prior code 17-104; Ord. 811 §1, 2009)

Sec. 10-2-90. Adjustments.

(a) The City Council has the power to and may adjust, upon recommendation of the City Manager and/or the Public Works Director, connections or service charges of any water user if and when, in the opinion of the City Council, the charges are inequitable or unreasonable or work a hardship on the water user. The adjusted charges are to be based upon the approximate amount of water used and the expense of the necessary facilities for carrying the water to the premises of the consumer.

(b) Any person deeming his or her rates or charges unfair or excessive has the right of hearing, on reasonable notice, before the City Council. (Prior code 17-29; Ord. 811 §1, 2009)

Sec. 10-2-100. Funds.

All funds collected or received under and pursuant to this Article shall be deposited with the City Treasurer/Finance Director and shall be kept

by him or her in the same funds as other revenues from the water system. The net proceeds thereof, after payment of operating expenses, including replacements, extensions and repairs, shall be used to pay interest on bonds and any surplus thereof to retire the principal on bonds. (Prior code 17-30)

ARTICLE 3

Water Service

Sec. 10-3-10. Permit required.

(a) No person, either as plumber, mechanic, craftsman, artisan or employee, or as owner or occupant of any premises within the City, shall make or cause to be made any connection to or with the municipal water system, nor any alteration, extension, major repair, replacement or change of any existing connection to the water system, without first obtaining a permit to do so from the City.

(b) Any person desiring to obtain any permit required by this Section shall make application therefor in writing. He or she shall give full and complete information showing the location, specifications, size, extent and approximate cost of any installation. No installation shall be commenced until the permit has been obtained and the fee has been paid. (Prior code 17-21; Ord. 811 §1, 2009)

Sec. 10-3-20. Tapping fees.

All property owners or other persons requesting City water service shall pay water tapping fees and rates in accordance with Appendix 10-B to this Chapter and shall obtain a City plumbing permit before any connection to the City water system will be permitted. (Prior code 17-22; Ord. 811 §1, 2009)

Sec. 10-3-30. Owner responsibility.

All property owners or other persons requesting connections with the water system must necessarily pay all costs and expenses of tapping and connecting with the main water lines laid in the streets, avenues and alleys of the City, and all costs and expenses of extending the lines and placing curb stop-boxes and

valves. The property owner or other person requesting the connections shall also pay all costs and expenses of putting the water lines under the sidewalks from the service valves at the curb onto and within his or her own property. He or she may do this himself or herself, subject to and in compliance with all rules, regulations and requirements made or to be made by the City in respect thereto. (Prior code 17-23)

Sec. 10-3-40. Separate taps required.

Each business, dwelling, establishment or building under separate ownership and desiring City water service shall have a separate water service tap. (Prior code 17-24)

Sec. 10-3-50. Water meters required.

Water meters shall be installed on all new service lines connected to the City's water system. All meters shall remain the property of the City whether installed on public or private property. (Prior code 17-25)

Sec. 10-3-60. Meters required upon transfer of property.

Upon changes in ownership of property within the City, either business, commercial, industrial, or residential, whether such transfer of property is by way of warranty deed, quitclaim deed, installment sales contract, or any other form of conveyance which effectively transfers ownership of such property within the City, such purchaser or grantee shall install, within thirty (30) days from the date

of such deed or contract, a water meter according to City specifications upon the property so purchased. (Prior code 17-26)

Sec. 10-3-70. Opening and closing valves.

A service charge which is on file in the office of the City Clerk shall be collected by the City per trip for opening or closing City service valves. This charge will not apply for the first valve opening of new services. (Prior code 17-27)

Sec. 10-3-80. Water taps outside City.

Taps of existing City water mains outside the City limits are generally prohibited; outside taps shall be permitted only by resolution of the City Council and after tapping fees are paid and the property owner purchasing the water tap has executed an annexation agreement prepared by the City. (Prior code 17-31)

Sec. 10-3-90. Wasting of water prohibited.

It is unlawful for any person to use or permit the use of City water in a wasteful manner, or to allow water to run to waste upon his or her premises, buildings, houses or lots in, through or out of any water closet, lavatory, bathtub, hose, hydrant, faucet or other fixture, or in any manner through neglect or by reason of faulty or imperfect plumbing or fixtures. Allowing water to continually run down a gutter or drain shall be prima facie evidence of wasting water. (Prior code 17-32)

Sec. 10-3-100. Water service tap; installation, specifications.

(a) All work, labor and services of tapping City water mains and/or extending service lines from City water mains to property or curb lines shall be done and performed only by City employees or under City contract operations.

(b) Water service lines from the City water main to the property or curb line and main water service valves shall be installed and maintained by the City. Water lines extending from the main service valve shall be installed and maintained by the property owner. Water meters shall be provided by the City and installed by the property owner or his licensed plumber.

(c) The location of water taps, main service valves and water meters shall be determined by the City after consultation with the property owners.

(d) The size of water taps and water meters shall be three-quarter ($\frac{3}{4}$) inch for single-family residences or for customers not having more than one (1) EQR unit connected. Larger water taps will be permitted only after review and approval of the City. (Prior code 17-33)

Sec. 10-3-110. Specifications for connections.

All connections and extensions having to do with serving water from the City water system shall be copper tubing or other appropriate materials complying with the state Plumbing Code. All lines, connections and valves shall be fitted watertight so that no leaks occur in any part of the premises served or to be served from the City water system. No connection, extension or installation shall be covered, hidden from view, or put to use until the same has been inspected and approved by the Public Works Director. (Prior code 17-34; Ord. 811 §1, 2009)

Sec. 10-3-120. Tampering prohibited.

No person, either as plumber, mechanic, craftsman, artisan or employee, or as owner or occupant of any premises within the City, shall commence, make, cause to be made, maintain, suffer or permit to be commenced, made or maintained any unauthorized connection to or with the municipal water system, or any unauthorized alteration, extension, repair or replacement of any existing connection, nor tamper with, obstruct or prevent City access to shut off or open any fire plug, meter, service valve or pumping facility, except as a duly authorized City employee, the Public Works Director, or a firefighter or police officer in the line of duty. (Prior code 17-35; Ord. 811 §1, 2009)

Sec. 10-3-130. Obstructing fire hydrant prohibited.

No person shall park, put or place any vehicle or obstacle within five (5) feet of any fire hydrant within the City or otherwise obstruct the free use of any fire hydrant, or suffer or permit any such acts to be done. (Prior code 17-36)

Sec. 10-3-140. Sprinkling restrictions.

The City Council may, by resolution, place any restrictions which it deems necessary upon the use of water for irrigation or sprinkling purposes. (Prior code 17-37)

ARTICLE 4

Cross-Connection Control

Sec. 10-4-10. Purpose.

The purpose of this Article is to:

(1) Protect the public potable water supply of the City from the possibility of contamination or pollution by isolating within the customer's internal distribution systems or the customer's private water systems such contaminants or pollutants that could backflow into the public water system.

(2) Promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-plant potable water systems and nonpotable water systems, plumbing fixtures, and industrial piping systems.

(3) Provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (Ord. 784 §1.1, 2006)

Sec. 10-4-20. Responsibility.

The City Manager shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the City Manager, an approved backflow-prevention assembly is required (at the customer's water service connection or, within the customer's private water system) for the safety of the water system, the City Manager shall give notice in writing to said customer to install such an approved backflow-prevention assemblies at specific locations on his or her premises. The customer shall immediately install such approved assemblies at his or her own expense. Failure, refusal or inability on the part of the customer to install, have tested, and maintain said assemblies shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met. (Ord. 784 §1.2, 2006)

Sec. 10-4-30. Definitions.

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

Air gap means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle. These vertical, physical separations must be at least twice the diameter of the water supply outlet, never less than one (1) inch (25 mm).

Approved means accepted by the authority responsible as meeting an applicable specification stated or cited in this Article or as suitable for the proposed use.

Auxiliary water supply means any water supply on or available to the premises other than the purveyor's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as a well, spring, river, stream, harbor, etc., used waters; or industrial fluids. These waters may be contaminated or polluted, or they

may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

Backflow means the undesirable reversal of flow in a potable water-distribution system as a result of a cross-connection.

Backflow preventer means an assembly or means designed to prevent backflow.

Backpressure means a pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler, or any other means that may cause backflow.

Backsiphonage means backflow caused by negative or reduced pressure in the supply piping.

Contamination means an impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the quality and creates a health hazard.

Cross-connection means a connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances, would allow such substances to enter the potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or nonpotable), or any matter that may change the color or add odor to the water.

Cross-connection, control by containment means the installation of an approved backflow-prevention assembly at the water service connection to any customer's premises, where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections that cannot be effectively eliminated or controlled at the point of cross-connection.

Cross-connection, controlled means a connection between a potable water system and a nonpotable water system with an approved backflow-prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

Double-check valve assembly means the approved double-check valve assembly consisting of two (2) internal check valves, either spring-loaded or internally weighted, installed as a unit between two (2) tightly closing resilient seated shutoff valves and fittings with properly located resilient-seated test cocks. This assembly shall only be used to protect against a non-health hazard (that is a pollutant).

Hazard, degree of is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

Hazard, health means a cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

Hazard, nonhealth means a cross-connection or potential cross-connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable, if introduced into the potable water supply.

Hazard, plumbing means a plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by an approved air gap or an approved backflow-prevention assembly.

Hazard, system means an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination that would have a protracted effect on the quality of the potable water in the system.

Industrial fluids system means any system containing a fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollution, or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to, polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulating cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; oils, gases, glycerin, paraffins, caustic and acid solutions; and other liquid and gaseous fluids used in industrial or other purposes for fire-fighting purposes.

Pollution means the presence of any foreign substance in water that tends to degrade its quality so as to constitute a nonhealth hazard or impair the usefulness of the water.

Reduced-pressure backflow-prevention assembly means the approved reduced-pressure principal backflow-prevention assembly consisting of two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. These units are located between two (2) tightly closing resilient seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.

Service connection means the terminal end of a service connection from the public potable water system, that is, where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

Water Commissioner or Health Official means the City Manager or his or her designee in charge of the Public Works Department of the City invested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this Article.

Water, nonpotable means water that is not safe for human consumption or that is of questionable quality.

Water, potable means water that is safe for human consumption as described by the public health authority having jurisdiction.

Water, used means any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor. (Ord. 784 §§2.1—2.18, 2006; Ord. 811 §1, 2009)

Sec. 10-4-40. Water system requirements.

(a) The water system shall be considered as made up of two (2) parts: the utility system and the customer system.

(b) The utility system shall consist of the source facilities and the distribution system and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins.

(c) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.

(d) The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.

(e) The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system that are utilized in conveying utility-delivered domestic water to points of use. (Ord. 784 §3.1, 2006)

Sec. 10-4-50. Policy.

(a) No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state laws and regulations and this Section. Service of water to any premises shall be discontinued by the water purveyor if a backflow-prevention assembly required by this Section is not installed, tested, and maintained, or if it is found that a backflow-prevention assembly has been removed or bypassed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(b) The customer's system should be open for inspection at all reasonable times to authorized representatives of the Public Works Department to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the City Manager shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the conditions in conformance with state statutes and City regulations relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(c) An approved backflow-prevention assembly shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line wherever the following conditions exist:

(1) In the case of premises having an auxiliary water supply that does not or may not have a safe bacteriological or chemical quality and that is not acceptable as an additional source by

the City Manager, the public water system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line, appropriate to the degree of hazard.

(2) In the case of premises on which any industrial fluids or any other objectionable substances are handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line, appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality.

(3) In the case of premises having a) internal cross-connections that cannot be permanently corrected and controlled, or b) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line.

(d) The type of protective assembly required under Paragraphs (c)(1), (2) and (3) above shall depend upon the degree of hazard that exists as follows:

(1) In the case of any premises where there is an auxiliary water supply as stated in Paragraph (c)(1) above and it is not subject to any of the following rules, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principal backflow-prevention assembly.

(2) In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water system, such system shall be protected by an approved double-check valve assembly.

(3) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principal backflow-prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, and plating plants.

(4) In the case of any premises where there are "uncontrolled" cross-connections, either actual or potential, to the public water system, the public water system shall be protected by an approved air-

gap separation or an approved reduced-pressure principal backflow-prevention assembly at the service connection.

(5) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced-pressure principal backflow-prevention assembly on each service to the premises.

(6) In the case of any premises where, in the opinion of the City Manager, an undue health threat is posed because of the presence of extremely toxic substances, the City Manager may require an air gap at the service connection to protect the public water system. This requirement will be at the discretion of the City Manager and is dependent on the degree of hazard.

(e) Any backflow-prevention assembly required herein shall be a model and size approved by the City Manager.

(1) The term *approved backflow-prevention assembly* shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association titled: ANSI/ AWWA C510-89, Standard for Double-Check Valve Backflow-Prevention Assembly, and AWWA C511-89, Standard for Reduced-Pressure Principal Backflow-Prevention Assembly, and has met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research (FCCCHR) of the University of Southern California established by "Specification of Backflow-Prevention Assemblies," Section 10 of the most current issue of the Manual of Cross-Connection Control.

(2) Said AWWA and FCCCHR standards and specifications have been adopted by the City Manager. Final approval shall be evidenced by a Certificate of Approval issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCCCHR specifications.

(3) The following testing laboratory has been qualified by the City Manager to test and certify backflow preventers: Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, University Park, Los Angeles, CA 90089. Testing laboratories other than the laboratory listed above will be added to an approved list as they are qualified by the City Manager.

(4) Backflow preventers that may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by said qualified laboratory and are listed on the laboratory's current list of approved backflow-prevention assemblies may be used without further testing or qualification.

(f) It shall be the duty of the customer-user at any premises where backflow-prevention assemblies are installed to have certified inspections and operational tests made at least once per year. In those instances where the City Manager deems the hazard to be great enough, certified inspections may be required at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative, Public Works Department personnel, or a certified tester approved by the City Manager. It shall be the duty of the City Manager to see that these tests are made in a timely manner. The customer user shall notify the City Manager in advance when the tests are to be undertaken so that the customer-user may witness the tests if so desired.

These assemblies shall be repaired, overhauled, or replaced at the expense of the customer-user whenever said assemblies are found to be defective. Records of such tests, repairs, and overhaul shall be kept and made available to the City Manager.

(g) All presently installed backflow-prevention assemblies that do not meet the requirements of this Section but were approved assemblies for the purpose described herein at the time of installation and that have been properly maintained, shall, except for the inspection and maintenance requirements under Subsection (f) above, be excluded from the requirements of these rules so long as the City Manager is assured that they will satisfactorily protect the utility system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance, or when the City Manager finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow-prevention assembly meeting the requirements of this Article. (Ord. 784 §3.2, 2006; Ord. 811 §1, 2009)

ARTICLE 5

Garbage and Refuse

Sec. 10-5-10. Authority of City generally; vehicle inspection.

(a) The City Council may, from time to time, enter into a contract with a responsible person or entity to collect and haul garbage, rubbish and trash from the City; or the City Council may provide for the removal of garbage, rubbish and trash in vehicles owned or controlled by the City.

(b) The City or its agents or contractors shall provide trash collection and removal services as provided in this Article to all dwellings, buildings, businesses, institutions and establishments within the City. All such dwellings, buildings, businesses, institutions and establishments which generate garbage, rubbish, and trash shall be responsible for the deposit of garbage, rubbish and trash as provided in this Article, shall be billed by the City or the contracting person or entity and shall be responsible for the timely payment of such amount due.

(c) The City Manager has the power and it is his or her duty to establish a regular program or schedule for the collection, removal and disposal of garbage, rubbish and trash from the City, to determine and enforce the specification for and inspect each and every vehicle used upon the public streets, alleys and passageways for the removal of any garbage, rubbish or trash at least once during each calendar month, and to report to the City Council the kind and condition of all vehicles in violation of this Article, any and all violations of this Article or any rule or regulation made under this Article. The provisions of this Section may be satisfied by any contracting person or entity by utilization of vehicles approved by the City. (Prior code 13-36; Ord. 770, 2004; Ord. 811 §1, 2009)

Sec. 10-5-20. Containers required.

Approved residential- and commercial-type mechanical loading containers shall be provided by such contracting person or entity in locations approved by the Public Works Department . (Prior code 13-37; Ord. 770, 2004)

Sec. 10-5-30. Deposit of garbage, rubbish and trash.

Each owner, occupant, tenant or person in charge of a dwelling house, apartment house, boardinghouse, restaurant, place of business or other property shall deposit or cause to be deposited in the container described in Section 10-5-20 above all garbage or rubbish accumulated, produced or brought therein, as soon as such garbage or rubbish is accumulated, produced or brought therein. All trash shall be promptly placed in appropriate containers or in neat piles upon the owner's or occupant's property and in locations designated by the contracting person or entity as to be easily and quickly accessible to collectors at all reasonable times. Such trash containers shall be placed in such accessible location not earlier than the day prior to collection, and shall be removed no later than the day after collection. (Prior code 13-38; Ord. 770, 2004; Ord. 811 §1, 2009)

Sec. 10-5-40. Schedule and change.

(a) The manner, time and charges to the owner or occupant of the property for the collection and removal of garbage, rubbish and trash shall be established by the contracting person or entity with the advance approval by the City Council.

(b) Trash collection may be discontinued for a period of not less than ninety (90) days if the property is not generating garbage, rubbish or trash due to the absence of the owner and/or occupant and by advance notification to the contractor by the property owner or occupant. Discontinuance or nonuse for periods of less than ninety (90) days will continue to be billed at normal rates. (Prior code 13-39; Ord. 770, 2004)

Sec. 10-5-50. Collection schedule.

The contracting person or entity shall establish routes and schedules for the efficient collection and removal of trash within the City. Collection in residential areas shall be once each week. Collection services shall be made available to businesses and institutions not less than once a week. All such schedules and routes shall be approved by the City Manager. There will be no trash collection on Sundays or official holidays. Trash routes missed due to holidays shall be run the following day. Trash collection routes, schedules and any changes thereto may be made from time to time, and shall be publicly announced so that all customers will know the days and approximate times of collection. (Prior code 13-41; Ord. 770, 2004)

Sec. 10-5-60. Collection points.

On the days and times designated for trash collection, each owner, occupant or operator of any dwelling, apartment, business or institution having trash to dispose of shall place or cause to be placed all trash accumulated in appropriate containers so as to be easily and quickly accessible to collectors at all reasonable times, upon the rear of the premises next to the alley or, if no alley is available, at curbside. Commercial-type containers shall be placed on level ground easily accessible to loading equipment and so placed to prevent snow or ice accumulation on or in the container. In no event will trash containers be placed in any public alley, street, sidewalk or passageway. (Prior code 13-42)

Sec. 10-5-70. Permit required for private collectors; fee.

No person shall engage in the collection or removal of garbage, rubbish or trash without first having a permit from the City Manager to transport garbage, rubbish and trash along, through, over or across the public streets and alleys of the City. In no event shall trash containers be placed so as to obstruct any public alley, street, sidewalk or passageway. Before granting any such permit, the City Manager shall collect and pay into the General Fund of the City a fee as negotiated between the City and the private collector for such permit. Such permit shall be on file in the City Clerk's office. (Prior code 13-66; Ord. 770, 2004; Ord. 811 §1, 2009)

ARTICLE 6

Sewer Activity Enterprise

Sec. 10-6-10. Established.

There is hereby established, pursuant to the terms and provisions of the Charter and the Sewer and Water System Law (Section 31-35-401, et seq., C.R.S.), the City of Monte Vista Sewer Activity Enterprise (the "Sewer Enterprise"). The Sewer Enterprise shall consist of the business represented by all of the City's sewer facilities and properties, now owned or hereafter acquired, whether situated within or without the City boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto (the "Sewer System"). The Sewer Enterprise shall have all of the authority, powers, rights, obligations and duties as may be provided or permitted by state statutory authority and the Colorado Constitution and as may be further prescribed by ordinance or resolution of the City. (Ord. 843, 2012)

Sec. 10-6-20. Governing body.

The governing body (the "Governing Body") of the Sewer Enterprise shall be the City Council and shall be subject to all of the applicable laws, rules and regulations pertaining to the City Council. (Ord. 843, 2012)

Sec. 10-6-30. Maintenance of status.

The Sewer Enterprise shall at all times and in all ways conducts its affairs so as to continue to qualify as a Sewer Activity Enterprise within the meaning of Section 31-35-401, et seq., C.R.S.; and the Enterprise shall take all actions which may be required to qualify as an "enterprise" within the meaning of Article X, Section 20, of the Colorado Constitution. Specifically, but not by way of limitation, for calendar year 2013, and for such calendar years thereafter as shall be determined in the discretion of the City Council, the Sewer Enterprise is not authorized and shall not receive ten percent (10%) or more of its annual revenue in grants from all state and local governments combined. (Ord. 843, 2012)

Sec. 10-6-40. Issuance of bonds.

The Sewer Enterprise is authorized to issue bonds, notes or other obligations payable from the revenues derived or to be derived from the Sewer System in accordance with the Charter and the Sewer Activity Law. (Ord. 843, 2012)

APPENDIX 10-A
WASTEWATER UTILITY RULES AND REGULATIONS
TABLE OF CONTENTS

Part 1	General Provisions
100	Purpose and Policy
Part 2	Definitions
201	Definitions
Part 3	Manager's Authorities
301	Responsibility of Manager
302	Interpretive Rules, Adoption of
Part 4	Wastewater Service
401	Service, Application for
402	Service, Excavations for
Part 5	Connection and Installation of System
501	Connection Required
502	Connection or Disconnection; Permits
503	Unauthorized Connections Prohibited
504	Connection to System; Inspection by Utility
505	Collection Lines; Manner of Extension
506	Wastewater Lines; Compliance With Subdivision Requirements
507	Service Lines; Separate for Each Building; Exceptions
508	Service Line; Construction to Conform to Rules and Regulations
509	Service Line; Use of Gravity Flow
510	Service Line; Maintenance of
511	Existing Lines; Conditions for Use
512	Construction; Requirements for Commencement and Completion
513	Fixture Unit Equivalents
514	Disconnection
515	Installation of Collector Line Tap
Part 6	Costs and Charges
601	Wastewater Facilities: Allocation of Cost
602	Installation Cost
603	Connection Charge
604	Permit Charge
605	System Development Charge
606	Recovery Agreement Charge
607	Rates and Charges; Basis for
608	Rates and Charges; Computation Of Nonresidential Loading Surcharges
609	Rates and Charges; Special
610	Perpetual Lien
611	Biennial Review
612	Rates and Charges; A.E. Staley Manufacturing
Part 7	Individual Wastewater Disposal Systems
701	Condition for Use
702	Privy Vaults Prohibited
703	Contents: Removal of

- 704 Dumping Grounds: Prohibition
- 705 Cessation of Use: When Required

Part 8 Prohibitions And Limitations on Wastewater Discharge

- 801 Wastewater Discharge; Treatment Required
- 802 Wastewater Discharge; Prohibitions
- 803 Wastewater Discharge; Limitations
- 804 Point of Discharge; Limitations
- 805 Disposal; Limitations

Part 9 Control of Prohibited Wastes

- 901 Regulatory Actions; General Powers of Manager
- 902 Regulatory Actions; Specific Powers of Manager
- 903 Reserved
- 904 Reserved
- 905 Admission to Property
- 906 Search Warrants
- 907 Accidental Discharge; Protection From
- 908 Reserved
- 909 Discharge Violation; Failure to Report
- 910 Reserved
- 911 Reserved
- 912 Hazardous Chemical Handling; Submission of Plans

Part 10 Liquid Waste Haulers

- 1001 Liquid Waste Haulers; Disposal Permit Required
- 1002 Liquid Waste Hauler Permit, Denial of
- 1003 Liquid Waste Hauler Permit; Revocation, Suspension, Probation

Part 11 Industrial Waste Management Program

- 1101 Industrial Waste Discharge Permit Required
- 1102 Industrial Waste Discharge Permit; Denial of
- 1103 Industrial Waste Discharge Permit; Revocation, Suspension, Probation

Part 12 Enforcement of Rules and Regulations

- 1201 Reserved
- 1202 Reserved
- 1203 Reserved
- 1204 Liability and Enforcement Generally
- 1205 Administrative Enforcement Remedies
- 1206 Civil and Criminal Penalties
- 1207 Reserved
- 1208 Supplemental Enforcement Remedies
- 1209 Reserved

APPENDIX 10-A

Wastewater Utility Rules and Regulations

PART I GENERAL PROVISIONS

100. PURPOSE AND POLICY

A. These Rules and Regulations set forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Monte Vista Wastewater Utility and enables the Utility to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251, et seq.). The objectives of these Rules and Regulations are:

1. To prevent the introduction of pollutant into the Publicly Owned Treatment Works that will interfere with its operation;
2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
3. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
4. To promote reuse and recycling of wastewater and sludge from the Publicly Owned Treatment Works;
5. To enable the Utility to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the Publicly Owned Treatment Works is subject; and
6. To enable the Utility to control the right to any use of the Utility's sewage system by conditional grants of permission which are subject to future conditions, suspension and revocation.

B. These Rules and Regulations shall apply to all users of the Publicly Owned Treatment Works. These Rules and Regulations authorize the issuance of waste discharge permits and wastewater connection permits; establish conditions for service; provide for enforcement activities; establish administrative procedures; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

PART 2 DEFINITIONS

201. DEFINITIONS:

A. Unless the context specifically indicates otherwise, the following terms, as used in these Rules and Regulations, shall have the meanings hereinafter designated:

Act means the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, and subsequent amendments (e.g., Clean Water Act of 1977), as found at 33 U.S.C. § 1251, et seq.

Biocides means those chemical compounds commonly known as herbicides, fungicides, rodenticides, insecticides or bactericides.

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 (20) degrees C., expressed in terms of weight and concentration (milligrams per liter).

Bypass means the intentional diversion of wastestreams from any point of the wastewater collection and treatment system.

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.

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

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 (1) sample.

Conventional pollutant means BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the Utility's CDPS Permit for its wastewater treatment works where said works have been designed to reduce or remove such pollutants.

Cooling water means the water discharged from uses such as air conditioning or refrigeration or to which the only pollutant added is heat.

Customer means the person or authorized agent of the person designated on the records of the Utility as the person responsible for payment of charges incurred for the use of the wastewater system of the Utility at the premises being served.

Dissolved solids means salt which is dissolved in water and cannot be filtered.

Discharge noncompliance means any discharge of any pollutant into the collection system which violates any provision of these regulations regarding discharges or is a violation of any provision of the Act.

Discharge rate means that volume of wastewater per operating day from the user which has been determined by the Manager to be representative of discharge from that user.

Domestic wastes or sanitary wastes means liquid waste:

- a. From the noncommercial preparation, cooking and handling of food; or

b. Containing human excrement and similar matter discharged into a collection line from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

Duplex dwelling means a single structure comprising separate housing for two (2) domestic users with separate entrances and exits and separately used sanitary conveniences in each dwelling unit on the premises.

Existing source means any person or user who occupies a structure or building for any length of time, either as a tenant or owner of such structure or building or under any other occupancy arrangement.

Extra cost charge means additional monitoring time and materials costs incurred by the Utility charged to the responsible user, and which are necessitated by a violation of applicable environmental standards or requirements of these Rules and Regulations. Such charges may include but not be limited to inspection time, sampling time, administrative review time, overhead charges, equipment or machine time, labor, sampling costs, lab fees and any other charges deemed necessary by the Manager to determine a user's compliance with these Rules and Regulations.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

Grab sample means a singular sample of a user's wastewater discharge which is taken during the user's normal operating day without regard for variations in daily operational characteristics, flow or concentration of pollutants.

Hazardous condition means a condition which, in the judgment of the Manager, poses a threat to life, health or safety of any person, or which may result in damage to property. *Hazardous condition* includes unsafe condition and dangerous condition.

Incompatible pollutant means any pollutant which is not a *conventional pollutant* as defined herein.

Individual wastewater disposal 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 District.

Industrial waste means any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process or operational procedure of an industrial waste discharger.

Industrial waste discharger means a source of discharge which introduces pollutants into the POTW from any nondomestic source, that, by its chemical nature, strength or volume, may cause, in the judgment of the Manager, interference with the POTW operation or cause or contribute to pass-through of pollutant to the receiving water in excess of the POTW CDPS Permit limitations, or in anyway may cause harm or threat of harm to the POTW, its workers, the public or the environment.

Instantaneous compliance sample means a grab sample collected for the purpose of gauging compliance with these Rules and Regulations.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources:

a. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

b. Therefore, is a cause of a violation of any requirement of the POTW'S NPDES Permit or CDPS Permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including state regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Mass emission rate means the weight of material or pollutants discharged to the sanitary sewer system during a given time interval.

Monthly average means the average of daily discharges over a calendar month as calculated by adding all the daily discharges measured during the calendar month, and dividing the sum by the number of daily discharges measured during that month.

Multi-family dwelling means a single structure comprising separate housing for more than two (2) domestic users with separate entrances and separately used sanitary conveniences in each dwelling unit on the premises.

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.

Normal domestic strength wastewater means wastewater that, when analyzed by standard methods, contains no more than two hundred (200) milligrams per liter of suspended solids (TSS) and two hundred (200) milligrams per liter of BOD.

Person means any individual, firm, company, partnership, corporation, association, group or society and includes the United States, the State of Colorado and agencies, districts, commissions and political subdivisions created by or pursuant to state or federal law.

Pass-through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW'S NPDES or CDPS Permit (including an increase in the magnitude or duration of a violation).

Permit means the right of discharge of domestic or sanitary wastes into Utility-owned collection lines.

Premises means a lot, parcel of land, building or establishment.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution, measured in a scale from 1—14 (1 to 7 = acidic; 7 to 14 = base), with 7 being neutral.

POTW, Publicly Owned Treatment Works, wastewater treatment system or wastewater system means:

- a. Any devices, facilities, structures, equipment or works owned or used by the Utility for the purpose of the transmission, storage, treatment, recycling and reclamation of domestic wastes, or necessary to recycle or reuse water, including intercepting sewers, outfall sewers, natural treatment systems, 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.

Receiving water means lakes, rivers, streams or other watercourses which receive treated or untreated wastewater.

Sanitary conveniences means plumbing fixtures connected to the waste line within a structure or building.

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.

Single-family dwelling means a detached residence, an attached townhome/townhouse, a modular home, a trailer home or a recreational vehicle, including the premises and the service connection to each structure.

Stormwater means water flowing or discharged as a result of rain, snow, or other precipitation.

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.

System development charge means that charge assessed against new users of the wastewater treatment system to finance capital improvement of the wastewater treatment system.

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 Utility.

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.

Upset means 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.

User means any person, firm, corporation, government or other entity that discharges, causes or permits the discharge of wastewater into the POTW.

Utility means the City of Monte Vista Wastewater Utility.

Utility Board means the City of Monte Vista Wastewater Utility Board or City of Monte Vista City Council.

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 stormwater that may be present, whether treated or untreated.

Wastewater facilities, wastewater treatment system, wastewater system, collection system means those devices intended or designed for generating or conveying wastewater to the Publicly Owned Treatment Works, and which provide treatment and/or disposal functions.

B. Terms not otherwise defined herein shall have the meanings adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation.

PART 3 MANAGER'S AUTHORITIES

301. RESPONSIBILITY OF MANAGER

The Manager of the Utility shall be responsible for the management of the wastewater system of the Utility and all of the property appertaining thereto. He or she shall see that such system is kept properly cleaned and in good working order and repair. He or she shall assure 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 or her by the Board.

302. INTERPRETIVE RULES, ADOPTION OF

The Manager may adopt interpretative rules consistent with the provisions of these Rules and Regulations for the administration of the wastewater system. Interpretive rules by the Manager pertain to, but shall not be limited to, discharge limitations, standards for wastewater lines and services and imple-

mentation of standards promulgated pursuant to the Act. In establishing such rules, 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 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 that will not otherwise endanger persons or property or constitute a nuisance.

PART 4 WASTEWATER SERVICE

401. SERVICE, APPLICATION FOR

Any person desiring to connect a service line to the wastewater treatment system of the Utility, 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 regulations or rules concerning the wastewater system. The Manager shall endorse his or her approval or disapproval of the application as complying or failing to comply with all regulations or rules concerning the wastewater system of the Utility. 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.

1. Permits to connect issued pursuant to this Section may provide for acceptance by the Utility of only normal domestic-strength wastewater. All permits to connect shall include a consent to these Rules and Regulations as a condition of the discharger's use of the wastewater system. Such permits to connect shall provide that any discharge of industrial wastewater by the user shall subject such user to consequential damages for violations of the Rules and Regulations, including but not limited to any amounts the Utility may be required to pay for violation of the conditions of the Utility's CDPS permit where the discharge of the user caused or contributed to such violation.

2. Permits to connect for use of or connection to the wastewater treatment system of the Utility in force and effect on the effective date of these Rules and Regulations shall remain in full force and effect in accordance with the terms and conditions thereof.

402. 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 including OSHA, COSH and the City of Monte Vista encroachment permit requirements so as to protect the public from hazard.

PART 5 CONNECTION AND INSTALLATION OF SYSTEM

501. CONNECTION REQUIRED

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the Utility 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 Utility, 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 these Rules and Regulations within ninety (90) days after official notice to do so, provided that said collection line is within four hundred (400) feet (122 meters) of the property line. Under unusual circumstances, such as unique topographical characteristics, the Manager, with Rio Grande County Department of Health approval, may waive the connection requirement herein stipulated.

502. CONNECTION OR DISCONNECTION; PERMITS

The Utility shall issue a permit for each connection or disconnection made to or from the wastewater treatment system of the Utility. Such permit will be required for all new connections, for existing connections where additional fixtures are to be installed, and for disconnections. Permits for connection or disconnection shall be issued only by the Utility.

503. UNAUTHORIZED CONNECTIONS PROHIBITED

It shall be a violation of these Rules and Regulations 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 a permit to connect from the Utility. Such connections shall be made in compliance with Building and Plumbing Codes, Utility Collection System Standards and other applicable rules and regulations of the Utility.

504. CONNECTION TO SYSTEM; INSPECTION BY UTILITY

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 Utility shall be made under the supervision of the Manager. The Utility 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.

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 Utility Collection System Standards and other applicable rules and regulations of the Utility. Extensions shall not be made 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.

506. WASTEWATER LINES; COMPLIANCE WITH SUBDIVISION REQUIREMENTS

No wastewater lines shall be laid or placed in any proposed addition or subdivision within the Utility until said proposed addition is platted and approved; however, the Manager may approve the installation of facilities after final approval of the final plat but prior to the recording of such plat, upon the request of the owner subject to an agreement as prescribed by the Manager.

507. SERVICE LINES; SEPARATE FOR EACH BUILDING; EXCEPTIONS

A separate and independent service line shall be provided for every building. However, where one (1) building stands at the rear of another on an interior lot which 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 (1) service. Multi-family or commercial complexes having more than one (1) 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 or portions of a single building on a single lot. 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 separate portions of a building or owner of separate buildings on the same lot. By interpretive rule, 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. Multiple commercial or industrial owners, tenants or users of a single building may be required to install separate service lines where the Manager determines that it is necessary to provide separate monitoring of quantity or quality of the user's effluent or to otherwise assure compliance with these Rules and Regulations, and, in particular, to ensure compliance with prohibitions and limitations on wastewater discharges to the Utility collection system. The Utility does not assume any obligation or acquire any liability for personal injury to any party or for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the wastewater system as aforementioned.

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 applicable Building and Plumbing Codes, the Utility's Collection System Standards and other applicable rules and regulations of the Utility.

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 Manager, and the installation shall be made in accordance with the requirement of the Utility at the owner's expense, including the maintenance.

510. SERVICE LINE; MAINTENANCE OF

A. The owner of any premises connected to the Utility'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 or her expense, any portions thereof which, in the opinion of the Manager, have become so damaged or disintegrated as to be unfit for further use or permit excessive infiltration of groundwater or exfiltration of wastewater. 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 Utility standards.

B. In the event that more than one (1) 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 Utility. A permit fee shall be imposed to cover the costs of the inspection. This inspection shall assure that rules applying to the wastewater system are met. The Utility shall not be subjected to any liability for any deficiency in the repair or alteration of such premises, and shall be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.

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 Part 5 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 Utility Collection System Standards.

512. CONSTRUCTION; REQUIREMENTS FOR COMMENCEMENT AND COMPLETION

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. Failure to comply with the above regulations may result in cancellation of the permit and return of connection charges paid less the cost to the Utility incurred to determine such noncompliance. The Manager may extend the time for completion of the building or facility beyond one hundred twenty (120) days for extenuating circumstances but not more than two (2) years. (See Paragraph 605.E.)

513. FIXTURE UNIT EQUIVALENTS

A. 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.

<i>Kind of Fixture</i>	<i>Trap Arm</i>	<i>Equivalent</i>
Bathtubs	1½"	2
Bidets	1½"	2

Dental unit or cuspidors	1½"	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"	1
Urinals, trough	1½"	2
Wash basins (lavatories), single	1¼"	1
Wash basins, in sets	1½"	2
Water closet, tank type	3"	4
Water closet, flush valve type	3"	6

B. The unit equivalent of plumbing fixtures not listed above shall be based on the following schedule:

<i>Trap or Trap Arm Size</i>	<i>Unit Equivalent</i>
1¼"	1
1½"	3
2"	4
3"	6
4"	8

5"	10
6"	12

514. DISCONNECTION

In the event that a user desires to disconnect his or her premises from the wastewater system of the Utility, he or she 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 or her 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 511 of these Rules and Regulations. New service lines to replace existing service lines shall not be approved by the Utility 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.

515. INSTALLATION OF COLLECTOR LINE TAP

In the event that a connection to an existing collector is required and there does not exist a service line extension to the property, the Utility will provide the labor, materials and equipment to drill the collector line and fasten the four-inch saddle connector. A base minimum permit fee will be charged and all direct costs that exceed the base minimum fee will be billed to the customer. No excavation, shoring or backfill work will be done by the Utility, and the Manager will require any additional excavation, shoring or dewatering of the excavated space that in his or her judgment alone is necessary before drilling the collector line and fastening the saddle. The Utility does not assume any obligation or acquire any liability for personal injury to any party or for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the wastewater system as aforementioned.

PART 6 COSTS AND CHARGES (SEE APPENDIX 10-B)

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 or her property or development upon approval of the plans and specifications by the Utility. The Utility shall inspect and approve the actual construction of wastewater facilities 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 or her needs for the service of lands adjacent to his or her property or development, in which case the Utility may enter into a recovery agreement with the owner or developer to collect a pro rata 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 nonserved or undeveloped lands, the owner or developer shall pay the entire cost of such facilities. However, the Utility may agree in writing with the owner or developer to collect a pro rata 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 Utility may require a larger capacity than necessary to serve the initial development. Where such larger capacity is required, the Utility may enter into a recovery agreement with the owner or developer to collect a pro rata 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 practical, easements shall be provided and lines constructed to tie into the gravity system. The Utility 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 Utility, he or she shall submit a notice of intent prior to the start of construction, and he or she shall provide a complete detailed summary of all construction costs to the Utility within one hundred twenty (120) days after the date of preliminary acceptance notice by the Utility.

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 unit 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 Board.

3. The amount of the recovery charge shall be computed by the following formula:

$$X = \frac{a(1 + (b + .03)^5)}{c}$$

X = unit recovery charge; per front foot, per lot, per acre or per single-family equivalent.

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, acres or single-family equivalents 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 Utility shall approve a contract period exceeding twenty (20) years. The owner or developer's rights to reimbursement shall expire two (2) years

after the expiration of the agreement. No requests for reimbursement by the owner or developer made more than two (2) years after the expiration date of the contract period of such agreement shall be considered by the Utility.

5. To receive reimbursements under such agreements, the owner or developer shall advise the Utility in writing of any changes of address and any assignments not later than ninety (90) days following the expiration of any such agreement. The Utility shall notify the owner or developer entitled to reimbursements of all amounts eligible for reimbursement and the date after which reimbursements will not be made. Said notice shall be made to the owner's or developer's last known address as reflected in the Utility's records. All amounts not reimbursed to the owner or developer shall be retained by the Utility as contribution in aid of construction.

F. All costs incidental to or resulting from the procurement by the Utility of any required easement or right-of-way, whether obtained by dedication, contract, condemnation or otherwise, shall be borne by the owner or developer, unless this requirement is waived by the Utility Board.

G. A property owner or developer will be responsible for the cost of construction of relief sewers and necessary appurtenances when proposed flow demand exceeds existing sewer system capacity. These relief sewer facilities may be constructed on the owner's or developer's property or off-site at other locations within the collection system. Subject to the availability of budgeted funds, the Utility may enter into a cost-sharing agreement with the owner or developer to pay a pro rata share of the construction cost of relief sewers based on the determination of benefit to the Utility by the Manager. Benefit to the Utility may be derived from but not limited to the following:

1. Relief of pipelines operating in excess of design capacity;
2. Replacement of structurally deficient pipelines;
3. Replacement of pipelines subject to flooding or other hazards;
4. Replacement of pipelines with inadequate operations and maintenance access;
5. Replacement of pipelines subject to excessive inflow/infiltration; and
6. Pipelines that provide for the elimination of pump stations and force mains.

The owners or developers and the Utility shall have the right to reimbursement under the provisions of the Recovery Agreement for construction of sewers as provided herein.

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 Utility for any loss or damage to the Utility that may directly or indirectly be occasioned by the installation of such service line.

603. CONNECTION CHARGE

In each lot, area, territory, subdivision or addition, inside the Utility limits, for which a request for wastewater connection or addition to the wastewater treatment system of the Utility shall be made, there is and shall be a connection charge in said areas. Said connection charge shall consist of a permit charge and a system development charge, and may also include recovery agreement charges.

604. PERMIT CHARGE

A. A permit charge shall be assessed for each connection to or disconnection from the wastewater treatment system of the Utility to defray the costs of administration and inspection. Such charge shall be assessed and collected prior to issuance of a permit to connect or a disconnection permit in amounts in accordance with Appendix 10-B.

B. Permits will be charged for:

1. Single-family dwelling: Each single-family dwelling and mobile home.
2. Duplex: Each duplex dwelling unit accommodating two (2) families and of residential construction.
3. Multi-family: For each premises, which may be described as an apartment, condominium, townhouse, stacked housing or other name for multi-family housing, permanent or transient, with a common wall separation of the dwellings, a permit charge shall be billed for the first fifteen (15) fixture unit equivalents, as set out in Section 513 of these Rules and Regulations, and for each additional fifteen (15) fixture units or portion thereof.
4. Disconnection: For each disconnection, a charge will be billed for each building in accordance with Appendix 10-B.

605. SYSTEM DEVELOPMENT CHARGE

A. A system development charge shall be assessed for each connection to the wastewater system of the Utility to partially defray the costs of capital improvement of such system. Such charge shall be collected not later than the date of the issuance of a certificate of occupancy, in amounts as shown in Appendix 10-B.

B. The system development charges stipulated in Appendix 10-B shall be increased at the discretion of the Utility Board.

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 the Board, except that any commercial operation in the Utility service area which is enlarging its facilities or building new facilities shall be given the opportunity to pay those wastewater system development charges normally collected at the time of issuance of a building permit on a two-year payment schedule. Payments must be made monthly with the utility bill incurred in the permit to discharge. Interest charges on fees not paid will be added in the amount of seven and one-half percent (7.5%) fixed rate. Such interest charges shall not be waived for any

governmental, quasi-governmental or nonprofit organization, or any other user requesting connection to the wastewater system of the Utility.

D. Credits: Credits for system development charges paid for prior development charge categories set out above may be given for re-use of existing connections or new connections to a land parcel which has previously had wastewater service. Credits will be based on the prior category. Credits for multi-dwelling units and nonresidential units must be determined by inspection by the Manager before remodel, moving or demolition of the structure. No refund for excess credits will be given.

E. Refunds: Requests for a refund of charges paid under this Section for connections not constructed shall be made in writing to the Utility within two (2) years of payment. No refunds of any charges paid under this Section shall be made unless a request is received by the Utility within two (2) years of payment. Any charges which are not refunded shall be retained by the Utility as a contribution in aid of construction, and shall be applied as a credit towards the payment of system development charges for the same connection which may become due thereafter.

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 Utility or is the subject of a recovery agreement between the Utility and the person who constructed such line or facility. Consistent with such agreements, such charge shall be in an amount which represents a pro rata 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 these Rules and Regulations shall remain in full force and effect.

1. Credits and Refunds: No credits or refunds will be made for recovery agreement charges.

607. RATES AND CHARGES; BASIS FOR

Wastewater Treatment Charges for Quantity Flows:

1. Residential User Charges: Basic charge for six thousand (6,000) gallons per month.
 - a. A minimum monthly flat rate charge for the treatment of not more than six thousand (6,000) gallons for each month will be billed for all residential single-family homes, duplex units, each townhouse or townhouse unit and each mobile home space occupied or unoccupied.
 - b. A monthly surcharge for excess gallonage above six thousand (6,000) gallons per month will be charged at a monthly rate per one thousand (1,000) gallons or increment thereof, based upon winter consumption as calculated for the month of February. (See Appendix 10-B; also see Section 608, which will apply herein.)
2. Commercial User Charges:
 - a. A minimum monthly flat rate charge for the treatment of not more than six thousand (6,000) gallons for each month will be billed all commercial users. Additionally, a monthly surcharge for excess gallonage above six thousand (6,000) gallons per month will be charged

at a monthly rate for each one thousand (1,000) gallons or increment thereof, as calculated from monthly water meter readings. (See Appendix 10-B.)

b. Irrigation allowance: Such customers with four thousand (4,000) square feet or more of irrigated property, upon written request, may be granted an irrigation allowance to be deducted from monthly metered water use in order to calculate monthly wastewater billing units. The irrigation allowance shall apply only to customers with four thousand (4,000) square feet or more of irrigated property. The irrigation allowance shall be based on monthly metered usage as measured by the difference between primary service water meter and the irrigation submeter reading. The irrigation submeter will be installed at the owner's expense.

608. RATES AND CHARGES; COMPUTATION OF NONRESIDENTIAL LOADING SURCHARGES

A. Basis of nonresidential wastewater treatment charges for BOD and TSS Loading:

Basis A. Each nonresidential account shall be assigned by the Manager to the most appropriate category listed in Appendix 10-B, attached hereto and incorporated herein by reference, titled: "Excess Loading Surcharge Table." Values for concentration of BOD and TSS are those terms as defined in Part 2 of these Rules and Regulations.

B. Basis for total nonresidential charges: The monthly charge for each nonresidential account shall consist of the following elements:

Element A: A wastewater treatment flow charge as stipulated in Appendix 10-B per an excess gallonage surcharge.

Element B: A surcharge for BOD and TSS in excess of "normal domestic strength wastewater" standards as determined by:

1. The assignment of each nonresidential user to a category listed in Appendix 10-B, including the assigned "excess table values" listed for that category.

FORMULA:

$$S = Q(0.00833AR_A + 0.00833CR_C) \text{ or}$$

Where:

S = Amount of surcharge (cannot be less than zero)

Q = 100% of year-round nonirrigation water consumption for the account, expressed in thousands of gallons per month (until year-round nonirrigation water consumption is established, Q = 100% of total water consumption).

A = Average BOD strength of wastewater expressed in mg/l minus 200 mg/l.

C = Average TSS strength of wastewater expressed in mg/l minus 200 mg/l.

$R_A = \$0.15$ per pound of excess BOD

$R_C = \$0.15$ per pound of excess TSS

(These rates may be superseded by Appendix 10-B (stated rates.)

609. RATES AND CHARGES; SPECIAL

A. Discounts: None

B. Enforcement charges: Any enforcement remedies assessed in accordance with Section 1205, including but not limited to administrative fines and extra costs charges, once final, may in the discretion of the Manager be collected as a charge pursuant to this Part.

C. Extra cost charges: There will be assessed charges for any materials, labor machine time, equipment time, inspection time, testing fees, engineering reports or administrative review time expenses by the Utility necessitated by the correction of violations of environmental standards or the Utility's NPDES Permit requirements.

D. Collection system construction bond: Prior to the commencement of construction of any additional system collector lines, the contractor will be required to furnish a bond as stipulated by the Manager to cover the cost of plan review, inspection costs, site engineering review (soils, backfills, etc.) and any necessary line cleaning, air testing or TV inspection which, in the opinion of the Manager, is required. Costs related to the above will be summarized and any excess bond funds will be returned to the contractor upon completion of the work and acceptance of the lines by the Utility.

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 Utility. Recordation of such lien shall not be a prerequisite to foreclosure thereof by the Utility.

611. BIENNIAL REVIEW

A review shall be conducted at least once every two (2) years of the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works and the user charge system.

612. RATES AND CHARGES; A.E. STALEY MANUFACTURING

A. Rates and charges for wastewater treatment for the A.E. Staley Manufacturing facility, located at 1001 North Road 3E, shall be based upon that facility's pro rata share of fixed and variable costs for the Pretreatment Digester Unit and the Veterans Wastewater Treatment Facility. Rates and charges shall be based on actual operating costs and projected equipment replacement costs, and shall be billed monthly. Billings shall be for the prior monthly billing period.

B. Basis for rates and charges: Rates and charges shall be based upon the BOD₅ Pretreatment Digester Unit and the Veteran's Wastewater Treatment Facility capacity reserved by the A.E. Staley

Manufacturing facility as a percentage of the total BOD₅ capacity of the Pretreatment Digester Unit and the Veterans Wastewater Treatment Facility.

1. Rates and Charges Elements: Rates and charges shall be based upon the following elements:

Element A: Fixed Costs:

a. Equipment replacement sinking fund. Based upon a twenty-year life for structures and ten-year life for equipment, using the initial capital cost for the Pretreatment Digester Unit and Veterans Wastewater Treatment Facility.

1. Original cost:

Veterans Wastewater Treatment Facility

10-year life	\$1,034,200

20-year life	243,150

Pretreatment Digester Unit

10-year life	\$512,376

20-year life	289,500

2. A.E. Staley Manufacturing Monthly Equipment Replacement Sinking Fund (ERSF) Charge:

Veterans Wastewater Treatment Facility

$[\$1,034,200 / (10\text{-yr} \times 12\text{-mo})] \times .92$	\$7,929

$[243,150 / (2\text{-yr} \times 12\text{-mo})] \times .92$	923

SUBTOTAL	\$8,861

Pretreatment Digester Unit

$[512,376 / (10\text{-yr} \times 12\text{-mo})] \times 1.0$	\$4,270

$[289,500 / (20\text{-yr} \times 12\text{-mo})] \times 1.0$	1,206

SUBTOTAL	\$5,476

Monthly ERSF Charge	\$14,337

b. Property and liability insurance costs: Pro rata share of monthly premium costs.

Element B: Variable costs

- a. Sludge removal/disposal costs (as incurred).
- b. Payroll costs.
- c. Spare parts inventory.
- d. Utilities.
- e. Regulatory costs.
- f. Contract analytical costs.
- g. Consumable supplies.
- h. Preventive and corrective maintenance costs.
- i. Professional services.

2. Pretreatment Digester Unit: As the Pretreatment Digester Unit is dedicated to A.E. Staley Manufacturing facility, the percentage of fixed and variable costs associated with the Pretreatment Digester Unit allocated to A.E. Staley Manufacturing shall be one hundred percent (100%). The City may enter into a lease agreement or operations and maintenance agreement with A.E. Staley Manufacturing for operations and maintenance responsibility for the Pretreatment Digester Unit. In the event of such agreement, A.E. Staley Manufacturing may assume direct responsibility for some or all of the fixed and variable costs for the Pretreatment Digester Unit.

3. Veterans Wastewater Treatment Facility. The percentage of fixed and variable costs allocated to A.E. Staley Manufacturing for the Veterans Wastewater Treatment Facility shall be ninety-two percent (92%), as calculated using the following formula:

$$R = [(3900 \text{ lbs/da} - 300 \text{ lbs/da})/3900 \text{ lbs/da}] \times 100\%$$

Where:

R = A.E. Staley percentage allocation of fixed and variable costs.

3900 lbs/da= rated BOD₅ capacity of the Veterans Wastewater Treatment Facility.

300 lbs/da = BOD₅ capacity at Veteran Wastewater Treatment Facility reserved by the City of Monte Vista.

PART 7
INDIVIDUAL WASTEWATER DISPOSAL SYSTEMS

701. CONDITION FOR USE

A. Where a collection line is not available to premises under the provisions established in these Rules and Regulations, the wastewater disposal facilities of such premises shall be connected to an individual wastewater disposal system complying with the provisions of these Rules and Regulations and the Rio Grande County – State Health Individual Sewage Disposal System Regulations as established by the Colorado Department of Public Health and Environment.

B. The type, capacity, location and layout of an individual wastewater disposal system shall comply with all standards of the Colorado Department of Public Health and Environment. No permit shall be issued for any individual wastewater disposal system employing subsurface soil adsorption 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 service area of the Utility or in any area under the jurisdiction of the Utility, the owner shall first obtain written approval signed by the Manager and by a representative of the Health Department.

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 service area of the Utility 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 these Rules and Regulations.

703. CONTENTS: REMOVAL OF

The contents of septic tanks or cesspools within the service area of the Utility shall not be removed therefrom, nor shall the same be transported through any street, alley or public place within the service area of the Utility, except in a sanitary manner, through or by means of airtight tanks, if soft and mixed with matter, and if solid or dry, in tightly covered tanks in such a manner as shall prevent the escape of noxious gases or offensive odors, and preserve such contents from sight or exposure during transport. All tools, appliances and vehicles used in such cleaning and removal shall be kept maintained in a sanitary condition and shall be subject to inspection and licensing by the Department of Health.

704. DUMPING GROUNDS: PROHIBITION

No wastewater residue, solid or soft material or other matter of any kind removed from a cesspool or individual wastewater disposal system may be dumped or otherwise disposed of within the service area of the Utility.

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 Utility, a direct connection shall be made by a master plumber to the collection line in compliance with these Rules and Regulations and the official notice, and any septic tank, cesspools and similar individual wastewater systems shall be cleaned and filled with suitable material with the approval of the Department of Health.

PART 8 PROHIBITIONS AND LIMITATIONS ON WASTEWATER DISCHARGE

801. WASTEWATER DISCHARGE; TREATMENT REQUIRED

It shall be unlawful for any person to discharge into any natural waterway or any surface drainage within the Utility, or in any area under the jurisdiction of the Utility, any wastewater unless suitable treatment of such wastewater has been provided in accordance with the provisions of these Rules and Regulations and applicable county, state or federal regulations.

802. WASTEWATER DISCHARGE; PROHIBITIONS

It shall be a violation of these Rules and Regulations and unlawful under federal law for any person to discharge or deposit, or cause or allow to be discharged or deposited, into the wastewater treatment facility of the Utility any wastes or wastewater which contains the following:

1. Stormwater drainage from ground, surface, roof headers, catch basins, unroofed area drains (e.g., commercial car washing facilities) or any other source.
2. Other water, including but not limited to, underground drains, sump pump discharges, natural springs, seeps, wetlands out flows and water accumulated in excavations or any other water associated with construction.
3. 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 settleable solids concentration greater than fifteen (15) milliliters per liter.
4. Unusual concentrations of dissolved solids, that may, alone or in conjunction with discharges from other users, cause the POTW effluent to exceed water quality criteria for the pollutant in question.
5. Oil and grease of the following concentrations, sources and nature:
 - a. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
 - b. 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.

6. 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 explosive 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. Wastestreams at the point of discharge are prohibited if they have a closed cup flashpoint of less than sixty (60) degrees centigrade (140 degrees Fahrenheit) using test methods specified in 40 CFR Part 261.21.

7. 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.

8. 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 (½) inch in any direction.

9. Radioactive wastes or isotopes of such a half-life or concentration that they do not meet regulations set forth by the Colorado Department of Public Health and Environment, in the latest edition of Rules and Regulations Pertaining to Radiological Control.

10. 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.

11. 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, including metals, which are not susceptible to treatment, which may interfere with the biological processes or efficiency of the treatment system or which will be transmitted through the system to receiving water, as may be measured by failure of a biomonitoring toxicity test.

12. Substances which are not amenable to treatment of prescribed reduction by the treatment process employed by the Wastewater Department, or are amenable to such a limited degree of reduction that a discharge of such wastewater may reasonably result in an interference with the

wastewater treatment works or pass through the treatment facilities such that the effluent discharge from the treatment works does not meet requirements of state, federal and other agencies having jurisdiction over discharge or application to receiving waters and/or lands.

13. Waste with color not removable by the treatment process.
14. Corrosive wastes which will cause corrosion, deterioration or interference of the District POTW. Discharges of wastes with pH less than 5.5 s.u. or greater than 10 s.u. are specifically prohibited.
15. 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.
 - a. A more stringent range of acceptable wastewater effluent pH identified in applicable National Categorical Pretreatment Standards shall supersede the range noted herein.
 - b. 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 exceeding ninety percent (90%) of the user's operating day.
16. 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 effected.
17. Hospital wastes: hospitals, clinics, offices of medical doctors and convalescent homes shall not dispose of laboratory pathological wastes, surgical operating room wastes or delivery room wastes by discharge to the public sewer.
18. Biocides as determined by the Manager in concentrations exceeding 0.02 mg/L unless approved in writing by the Manager.
19. Any pollutant, including oxygen demanding pollutants or slug concentrations (e.g., BOD) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
20. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty (40) degrees centigrade (105 degrees Fahrenheit).
21. Any trucked or hauled pollutants, except at discharge points designated by the POTW.
22. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
23. Dilution, except where expressly authorized by the Manager, Industrial Waste Discharger shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial

or complete substitute for adequate treatment to achieve compliance with a requirement of an industrial waste discharge permit.

24. Heavy metals in excess of the below-listed concentrations (Total Recoverable).

<i>Metal (Total Recoverable)</i>	<i>Limitation (ug/L)</i>
Cadmium	5
Chromium	1,000
Copper	50
Lead	15
Nickel	750
Zinc	500

803. WASTEWATER DISCHARGE; LIMITATIONS

A. It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited into the wastewater facilities of the District, any waste or wastewater which fails to comply with the limitations imposed by this Section.

B. (RESERVED)

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.

805. DISPOSAL; LIMITATIONS

It shall be unlawful for any person to dispose of wastes into the wastewater system 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 this Part 8.

PART 9 CONTROL OF PROHIBITED WASTES

901. REGULATORY ACTIONS; GENERAL POWERS OF MANAGER

In addition to his or her authority to prevent or eliminate discharges through enforcement of discharge limitations and prohibitions, the Manager shall have the following authorities:

1. 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 Utility, area under jurisdiction of the Utility, wastewater collection system of the Utility or wastewater system tributary thereto, by any means available to him or her, 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.

2. Endangerment to the environment or the POTW: The Manager, after written order to the discharger, may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the Utility, area under jurisdiction of the Utility, wastewater collection system of the Utility or wastewater system tributary thereto, by any means available to him or her, including physical disconnection from the wastewater system, whenever such discharge presents or may present an imminent and substantial endangerment to the environment or threatens to damage or interfere with the operation of the POTW.

The discharges referred to above may be halted or prevented without regard to the compliance of the discharge with other provisions of these Rules and Regulations.

902. REGULATORY ACTIONS; SPECIFIC POWERS OF MANAGER

If wastewaters containing any substance described in Part 8 of these Rules and Regulations are discharged or proposed to be discharged into any natural waterway, surface drainage within the Utility or area under the jurisdiction of the Utility, into the wastewater collection system of the Utility or any wastewater system tributary thereto, the Manager may take any action necessary to:

1. Prohibit the discharge of such wastewater;
2. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with these Rules and Regulations;
3. 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 these Rules and Regulations;
4. Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the Utility for handling, treating or disposing of excess loads imposed on the wastewater treatment system, including any fines or legal expenses associated with alleged or actual violations of the Utility's CDPS Permit attributed to an unpermitted user discharge;
5. Obtain timely and factual reports from the facility responsible for such discharge; or
6. Take such other or further remedial action as may be deemed to be desirable or necessary to achieve the purposes of these Rules and Regulations.

903. RESERVED

904. RESERVED

905. ADMISSION TO PROPERTY

Whenever it shall be necessary for the purposes of these Rules and Regulations, the Manager, upon the presentation of credentials, may enter upon any property or premises of a Wastewater System User at reasonable times for the purposes of:

1. Inspecting on a regular basis or for cause to assure compliance with the requirements of these Rules and Regulations. Such inspection shall be completed with reasonable promptness. If any samples are taken, an equal quantity shall be given, if requested, to the owner, agent or operator.
2. Copying any records required to be kept under the provisions of these Rules and Regulations.
3. Inspecting any monitoring equipment or method or pretreatment system operation.
4. 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. Unreasonable delays in allowing the Manager access to the user's premises shall be a violation of these Rules and Regulations.

906. SEARCH WARRANTS

If the Manager has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of these Rules and Regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Utility designed to verify compliance with these Rules and Regulations or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, the Manager may seek issuance of a search warrant from the District Court of Rio Grande County.

907. ACCIDENTAL DISCHARGE; PROTECTION FROM

Each user shall provide adequate protection as approved by the Manager from unpermitted discharge of prohibited materials or other wastes regulated by these Rules and Regulations. 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 or her 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 these Rules and Regulations.

908. RESERVED

909. DISCHARGE VIOLATION; FAILURE TO REPORT

It shall be unlawful for any person to fail to report to the Manager any discharge which violates the requirements, prohibitions or limitations of these Rules and Regulations.

910. RESERVED

911. RESERVED

912. HAZARDOUS CHEMICAL HANDLING; SUBMISSION OF PLANS

Whenever it shall be deemed necessary by the Manager to protect the Wastewater System, commercial users may be required to submit documented plans describing the handling of materials regulated by Part 8 of these Rules and Regulations for the Manager's approval. Such plans may include, but not be limited to, description of plant or process closure procedures, spill prevention procedures, solvent management procedures and hazardous wastes handling, storage and disposal procedures. Such approval shall not exempt the user from compliance with any applicable code, ordinance, rule, regulations or order of any government authority. Such approval shall not be construed as or act as a guarantee or assurance that any discharge or materials handling procedure is or will be in compliance with any applicable code, ordinance, rule, regulations or order of any government authority.

**PART 10
LIQUID WASTE HAULERS**

1001. LIQUID WASTE HAULERS; DISPOSAL PERMIT REQUIRED

A. Liquid waste haulers are subject to these Rules and Regulations, except for Subsection 802.5.a., and as otherwise noted herein. Persons disposing of permitted wastes at the designated disposal facilities of the Utility shall obtain a liquid waste hauler permit as specified. There shall be and there is hereby established a liquid waste hauler permit charge of fifty dollars (\$50.00) annually. Such charge shall be payable by the applicant at the time the application is submitted. Checks shall be made payable to the City of Monte Vista Wastewater Utility.

B. Persons seeking a permit to use the designated disposal facilities of the Utility 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 the hauler.
2. Number, capacity and type of vehicles that will utilize the facility.
3. Types of materials pumped by the hauler and the specific disposal methods and locations for said materials.
4. Other items as the Manager deems appropriate to assure compliance with this Article.

5. Name and position of the applicant.

C. There shall be a disposal charge of fifteen dollars (\$15.00) per one thousand (1,000) gallons of permitted wastes discharged into the designated disposal facility. Such charge shall be payable on a monthly basis and shall be collected by the City of Monte Vista Wastewater Utility.

1. Accounting and billing of each load discharged will be accomplished by use of an electronic card reading and printing device located at the POTW or by other means deemed appropriate by the Manager.

2. Each vehicle using the designated disposal facility must have an authorization document issued by the Utility, which document shall identify the company, permit number, identification of vehicles and other items as appropriate or otherwise indicated in the liquid waste hauler permit.

3. There shall be established a charge of five dollars (\$5.00) per card for replacement of lost electronic pass cards. Damaged or otherwise unusable pass cards shall be replaced free of charge.

D. Permits to use the disposal facilities of the Utility are subject to all the provisions of these Rules and Regulations.

E. Liquid wastes disposed of at the designated disposal facilities of the Utility shall be subject to sampling to determine compliance with all applicable provisions of these Rules and Regulations. Limitations and prohibitions governing these pumpings are contained in Section 802 of these Rules and Regulations except as follows in milligrams per liter:

INSTANTANEOUS COMPLIANCE SAMPLE

<i>Pollutant</i>	<i>Not to Exceed</i>
Hydrocarbon	5,000

F. Liquid Waste Hauler Permit Conditions.

1. Liquid waste hauler permits shall be issued only to eligible persons residing within Rio Grande County. The City of Monte Vista Wastewater Utility will accept only domestic wastes generated within Rio Grande County.

2. Liquid waste hauler permits shall be issued for no longer than three (3) years. All terms and conditions of the permit may be subject to modification and change by the Manager during the life of the permit.

3. A liquid waste hauler permit may not be transferred, reassigned or sold.

4. Liquid waste hauler 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.

5. Conditions contained in the liquid waste hauler permit may include but are 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 and card numbers;
- h. Recordkeeping and reporting requirements;
- i. Compliance with rules and regulations of the Utility and Health Department regarding proper cleanliness and sanitary conditions;
- j. Requirements to immediately notify the Manager of any unusual circumstances observed during liquid waste pumping operations; and
- k. Other conditions, limitations or prohibitions deemed appropriate by the Manager.

6. Electronic cards shall be issued for each truck utilizing the designated disposal facilities of the Utility.

- a. Properly issued cards shall be designated in the liquid waste hauler permit identifying the specific truck issued to, card number and date issued.
- b. The authorization document issued by the Utility in accordance with Subsection 1001.C.2. above shall accompany each vehicle and be made available upon request of any Utility employee.

7. Liquid waste hauler truck contents shall be subject to sampling and analysis by Utility employees at any time.

8. 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. Any significant change in the information provided by the permittee on the liquid waste hauler permit application form shall be reported to the Manager as follows:

- 1. Fourteen (14) days prior to the known date of a planned significant change.
- 2. Within seven (7) days after the known date of an unplanned significant change.
- 3. For purposes of this Section, *significant change* shall mean:

- a. Change in the number of disposal vehicles operated by the permittee.
- b. Replacement of a disposal vehicle operated by the permittee.
- c. Alteration of the tank size of any disposal vehicle operated by the permittee.
- d. Other items as specified in the liquid waste hauler permit.

H. Any Utility employee shall have the authority to order the immediate discontinuance of the discharge from any liquid waste hauler truck into the designated disposal facilities of the Utility. Such order shall be based on the employee's best professional judgment that said discharge may be in violation of any applicable condition of the Rules and Regulations or may otherwise be deleterious to the operation of the wastewater system or POTW or the safety of its workers.

1002. LIQUID WASTE HAULER PERMIT, DENIAL OF

A. The Manager may deny the issuance of a liquid waste hauler permit on the following grounds:

- 1. The applicant does not reside within Rio Grande County;
- 2. The applicant knowingly falsified information on his or her application;
- 3. The applicant's previous or other liquid waste hauler permit is under suspension or probation or has been otherwise revoked and the condition upon which such action was taken still exists;
- 4. The applicant is not current on all disposal and permit related reports and charges;
- 5. Discharge to the POTW of unpermitted or otherwise prohibited wastes; or
- 6. Other items as the Manager considers significant.

B. In the event an application for a liquid waste hauler 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.

C. 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 Manager or his or her designated representative. At such hearing, the applicant shall have the burden of establishing that the conditions set out in these Rules and Regulations have been met and that the permit should be issued.

D. The Manager may conduct the hearing and take the evidence or may designate a representative to:

- 1. Issue in the name of the Manager 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; and

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, to the Manager together with recommendations for action thereon.

1003. LIQUID WASTE HAULER PERMIT; REVOCATION, SUSPENSION, PROBATION

A. All liquid waste hauler permits issued to any person may be revoked, suspended or entered into a probationary period upon a finding by the Manager that any of the following conditions exist:

1. Such person has failed to pay 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 designated disposal facilities of the Utility in violation of requirements established by the Manager.

3. Such person or representative thereof failed to display the authorization document upon request by a representative or employee of the Utility.

4. Such person or representative thereof has changed, altered or otherwise modified the face of a permit or authorization document without the permission of the Utility.

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

6. Such person or representative thereof has falsified any application, records, reports or monitoring results required to be maintained, or has failed to immediately make available such items to the Utility upon his or her request.

7. Such person or representative thereof failed to immediately halt the discharge from his or her truck into the designated disposal facilities of the Utility upon the order of any Utility employee.

B. Any liquid waste hauler permit which has been revoked, suspended or entered into probation pursuant to this Section may be reinstated upon a finding by the Utility that the condition which resulted in such revocation no longer exists.

C. Upon determination of a Rules and Regulations or liquid waste hauler permit violation, any permittee shall be subject to the enforcement actions outlined in Part 12 of these Rules and Regulations, or as is otherwise contained in the liquid waste hauler permit as necessary to protect the POTW or environment.

D. Suspensions and periods of probation may be effected by the Manager for any length of time up to one (1) year.

PART 11
INDUSTRIAL WASTE MANAGEMENT PROGRAM

1101. INDUSTRIAL WASTE DISCHARGE PERMIT REQUIRED

A. Industrial waste dischargers are subject to these Rules and Regulations. Persons fitting the description of industrial waste discharger (as defined in Section 201), and who are disposing or propose to dispose of permitted wastes through the discharge of such wastes to wastewater facilities of the Utility, shall obtain an industrial waste discharge permit as specified. There shall be and there is hereby established an industrial waste discharge permit charge of one thousand dollars (\$1,000.00). Such charge shall be payable by the applicant at the time the application is submitted. Checks shall be made payable to the City of Monte Vista Wastewater Utility.

B. Persons seeking a permit to discharge industrial wastes to wastewater facilities of the Utility 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 the responsible individual.
2. Business address of the discharging industrial facility, building or complex.
3. Name and position of the applicant.
4. Chemical nature and volume of the wastes to be discharged.
5. Description of the primary manufacturing or service activity of the business seeking wastewater service.
6. Information on the raw materials used and the products manufactured.
7. Water usage information.
8. Any toxic material used in the manufacturing process or stored on site.
9. Spill prevention and countermeasure plan.
10. Stormwater management plan.
11. Facility layout and process flow schematic.
12. Backflow prevention program.

C. Permits to use the disposal facilities of the Utility are subject to all the provisions of these Rules and Regulations.

D. Industrial wastes discharged into wastewater facilities of the Utility shall be subject to sampling to determine compliance with all applicable provisions of these Rules and Regulations. The industrial waste discharger shall provide and maintain a representative sampling point and/or allow access City representatives to conduct sampling. The industrial waste discharger shall conduct any required

sampling and analyses in accordance with methods prescribed in 40 C.F.R. Part 136. Limitations and prohibitions governing such industrial discharges are contained in Section 802 of these Rules and Regulations.

E. Industrial waste discharge permit conditions:

1. Industrial waste discharge permits shall be issued for no longer than three (3) years. All terms and conditions of the permit may be subject to modification and change by the Manager during the life of the permit.

2. An industrial waste discharge permit may not be transferred, reassigned or sold.

3. An industrial waste discharge permit renewal must be applied for and an updated permit application submitted to the Manager at least ninety (90) days prior to the expiration date contained in the permit.

4. Conditions contained in the industrial waste discharge permit may include but are not limited to:

- a. Firm name, address and phone number;
- b. Authorized representative information and signature;
- c. Certification of permit condition acceptance;
- d. Conditions upon which permit revocation may occur;
- e. Self-monitoring requirements;
- f. Effluent limitations;
- g. Recordkeeping and reporting requirements;
- h. Compliance with rules and regulations of the Utility and Health Department regarding proper cleanliness and sanitary conditions;
- i. Requirements to immediately notify the Manager of any atypical conditions, emergency situations, including spills or process equipment failure, any significant changes in the character and/or volume of wastes discharged;
- j. Spill prevention and countermeasure plan and material storage management plan;
- k. Right of entry and inspection by the Manager or his or her representative;
- 1. Slug discharge prohibitions; and
- m. Other conditions, limitations or prohibitions deemed appropriate by the Manager.

5. Industrial waste discharge shall be subject to sampling and analysis by Utility employees at any time.

6. 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.

F. Any significant change in the information provided by the permittee on the industrial waste discharge permit application form shall be reported to the Manager as follows:

1. Fourteen (14) days prior to the known date of a planned significant change.
2. Within seven (7) days after the known date of an unplanned significant change.
3. For purposes of this Section, *significant change* shall mean:
 - a. Change in the manufacturing process, raw materials or product.
 - b. Replacement of or change in pretreatment equipment of processes operated by the permittee.
 - c. An increase or decrease in monthly average discharge flow or discharge waste load of fifteen percent (15%) or more.
 - d. Other items as specified in the industrial waste discharge permit.

G. The Manager shall have the authority to order the immediate discontinuance of the discharge from any industrial waste discharger discharging industrial wastes into wastewater facilities of the Utility. Such order shall be based upon the Manager's best professional judgment that said discharge may be in violation of any applicable condition of the Rules and Regulations or may otherwise be deleterious to the operation of the wastewater system or POTW or the safety of its workers, the public or the environment.

1102. INDUSTRIAL WASTE DISCHARGE PERMIT; DENIAL OF

A. The Manager may deny the issuance of an industrial waste discharge Permit on the following grounds:

1. The applicant knowingly falsified information on his or her application;
2. The applicant is not current on all disposal and permit related reports and charges;
3. Discharge to the POTW of unpermitted or otherwise prohibited wastes;
4. Discharges in excess of the industrial waste discharge permit effluent limitations, such that the discharge has caused or may cause, in the Manager's opinion, interference with the POTW operation or pass-through to the receiving waters of wastes in excess of the POTW CDPS permit limitations;
5. Violations of industrial waste discharge permit monitoring, recording or reporting requirements; or

6. Other items as the Manager considers significant.

B. In the event an application for an industrial waste 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 the 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.

C. 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 Manager or his or designated representative. At such hearing, the applicant shall have the burden of establishing that the conditions set out in these Rules and Regulations have been met and that the permit should be issued.

D. The Manager may conduct the hearing and take the evidence or may designate a representative to:

1. Issue in the name of the Manager 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 Manager, together with recommendations for action thereon.

1103. INDUSTRIAL WASTE DISCHARGE PERMIT; REVOCATION, SUSPENSION, PROBATION

A. Any industrial waste discharge permit issued to any person may be revoked, suspended or entered into a probationary period upon a finding by the Manager that any of the following conditions exist:

1. Such person has failed to pay disposal charges within sixty (60) days after such charges were due and payable.
2. Such person has discharged unpermitted wastes or otherwise prohibited wastes.
3. Such person or representative thereof has failed to monitor, record and report information as required in the industrial waste discharge permit.
4. Such person has discharged wastes in excess of the industrial waste discharge permit effluent limitations such that the discharge caused or may cause, in the opinion of the Manager, interference with the POTW operation or pass-through to the receiving waters of wastes in excess of the POTW CDPS permit limitations.
5. Such person or representative thereof has changed, altered or otherwise modified the face of a permit or authorization document without the permission of the Utility.
6. Such person or representative thereof has violated any condition of the permit.

7. Such person or representative thereof has falsified any application, records, reports or monitoring results required to be maintained, or has failed to immediately make available such items to the Manager upon his or her request.

8. Such person or representative thereof failed to immediately halt the discharge from his or her truck into the designated disposal facilities of the Utility upon the order of the Manager.

B. Any industrial waste discharge permit which has been revoked, suspended or entered into probation 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 Rules and Regulations or industrial waste discharge permit violation, any permittee shall be subject to the enforcement actions outlined in Part 12 of these Rules and Regulations, or as is otherwise contained in the industrial waste discharge permit as necessary to protect the POTW, its workers, the public or the environment.

D. Suspensions and periods of probation may be effected by the Manager for any length of time up to one (1) year.

PART 12 ENFORCEMENT OF RULES AND REGULATIONS

1201. RESERVED

1202. RESERVED

1203. RESERVED

1204. LIABILITY AND ENFORCEMENT GENERALLY

A. Noncompliance with these Rules and Regulation or order thereunder shall constitute a violation, regardless of fault, negligence or intent (strict liability). The Manager shall have the discretion to enforce any violation. In exercising his or her enforcement authority, the Manager shall consider the magnitude of the violation, its duration, its effect on the receiving water, collection or treatment facilities, its effect on Utility employees, contractors and users, its effect on the public health, safety and welfare, the user's compliance history, the good faith of the user, the resources available to support the enforcement action and any other factors the Manager deems relevant.

1205. ADMINISTRATIVE ENFORCEMENT REMEDIES

A. The Manager or his or her designated agent may use the following remedies, either individually, sequentially, concurrently or in any order, for one (1) or collective violations as appropriate for the circumstances, considering Sections 1201 through 1204.

B. Verbal notice. For any noncompliance, verbal warnings may be given by the Manager or his or her designated agent.

C. Information production/review meeting. When there is some reason to believe that a violation of these Rules and Regulations has occurred, the Manager or his or her designated agent may require production of information such as records, reports, noncompliance explanations, installation of monitoring equipment or methods (including where appropriate, biological monitoring methods) or such other information as may reasonably be required, including meetings, for such purposes.

D. Emergency suspension order:

1. The Manager may suspend the wastewater treatment service of any user or may suspend a wastewater discharge permit or disconnect the sewer connection when such suspension or disconnect is necessary in the opinion of the Manager in order to stop an actual or threatened discharge which:

a. Presents or may present an imminent or substantial endangerment to the health, safety or welfare of persons or property;

b. Presents or may present an imminent or substantial endangerment to the environment;

c. May cause or actually causes interference to the POTW or pass-through of contaminants causing violation of the POTW's permit; or

d. Causes the POTW to violate any condition of its CDPS or NPDES permit, certificate of designation or other federal or state laws.

2. In the event of a suspension or disconnection under this Section, within fifteen (15) days the user shall submit a written report describing the event that caused the suspension, its compliance status and the measures necessary to prevent a recurrence.

3. The Manager may reinstate the wastewater discharge permit or sewer connection upon proof of compliance.

E. Extra costs charge order:

1. The Manager may assess a charge to recover costs incurred by the POTW for extra monitoring investigation or quantifiable damages attributable to any user who is found to have:

a. Discharged a waste which causes an obstruction, damage, interference, pass-through or other impairment to the Utility POTW; or

b. Committed a violation of these Rules and Regulations.

2. The amount of this charge shall be determined by the Manager and may include:

a. Sampling and analysis costs.

b. Time, material and equipment costs incurred as a result of inspection procedures.

c. Costs incurred in the administrative analysis of all pertinent information, or extraordinary costs incurred by the POTW as a result of discharge or other noncompliance, such as time (including legal services), material and equipment costs, including chemical usage, detecting and preventing or correcting interference or pass-through of POTW or repairing damage to the POTW.

d. Other associated costs as the Manager may deem necessary.

3. Such fee shall be payable by the user within thirty (30) days of being notified of the final cost, and is subject to collection by civil suit.

1206. CIVIL AND CRIMINAL PENALTIES

A. Injunction. When the Manager finds that a user has violated, or continues to violate, any provision of these Rules and Regulations, liquid waste hauler or any industrial waste discharge permit, or order issued hereunder, the Manager may petition the District Court of the State of Colorado through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the liquid waste hauler permit or industrial waste discharge permit, order or other requirement imposed by these Rules and Regulations on activities of the user. The Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

B. Civil penalties. Any user who is found to have failed to comply with any provisions of this Part, or the orders, rules, regulations and permits issued thereunder, shall be fined a civil penalty in an amount up to ten thousand dollars (\$10,000.00) per day for each violation/offense, pursuant to the authority of Section 25-8-608(1), C.R.S., as amended, and the Federal Water Pollution Control Act, commonly referred to as the "Clean Water Act." Each day on which a violation occurs or continues shall be deemed a separate and distinct offense. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation and any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees and any other expenses of litigation by appropriate suit at law against the person found to have violated these Rules and Regulations or orders, rules, regulations and permit issued pursuant to these Rules and Regulations.

C. Criminal penalties. A user who discharges any pollutant into the City's POTW commits criminal pollution if such discharge violates any provision of these Rules and Regulations, a permit issued under these Rules and Regulations, or order issued hereunder, and the discharge is made:

1. With criminal negligence or recklessly, in which case the user shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twelve thousand five hundred dollars (\$12,500.00) per violation per day, or imprisonment for not more than one (1) year.

2. Knowingly or intentionally, in which case the user shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than fifteen thousand dollars (\$15,000.00) per violation per day, or imprisonment for not more than one (1) year.

3. A user who knowingly makes any false statements, representations or certification in any required record, report, plan or other documentation filed or required to be maintained, pursuant to these Rules and Regulations, discharge permit or order issued hereunder, or who falsifies numbers, or knowingly renders inaccurate any monitoring device or method required under these Rules and Regulations shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000.00) per violation per day, or imprisonment of not more than one (1) year, or both.

4. If two (2) separate offenses under this Section occur in two (2) separate occurrences during a period of two (2) years, the maximum fine for the second offense shall be double the amounts specified in Subsections b. and c. above.

1207. RESERVED

1208. SUPPLEMENTAL ENFORCEMENT REMEDIES

Lien for costs incurred. All costs and expenses, including civil penalties, incurred to abate a nuisance or enforce provisions of these Rules and Regulations, including those relating to violations or enforcement of permits and orders, shall constitute a lien on the real property or not. The lien may be recorded in the real estate records of the appropriate county, and may be enforced and collected in accordance with law. The choice between judicial action or administrative action to recover such sums shall be in the discretion of the Manager.

1209. RESERVED

APPENDIX 10-B
UTILITY RATES AND CHARGES
TABLE OF CONTENTS

Reserved

APPENDIX 10-B

Utility Rates and Charges

(To be completed at a later date)

CHAPTER 11

Annexations

Article 1 Annexation Procedures

- Sec. 11-1-10 Purpose
- Sec. 11-1-20 Responsibilities of applicant
- Sec. 11-1-30 Procedure

ARTICLE 1

Annexation Procedures

Sec. 11-1-10. Purpose.

The purpose of this Chapter is to establish a procedure to bring land under the jurisdiction of the City in compliance with the Colorado Municipal Annexation Act of 1965, as amended. (Ord. 811 §1, 2009)

Sec. 11-1-20. Responsibilities of applicant.

In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Annexation Act of 1965, as amended, all applicants shall have the following responsibilities:

(1) The applicant is responsible for having a representative at all meetings where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.

(2) The applicant shall consult with the Community Development Director to discuss any special conditions pertaining to the annexation and to obtain an annexation petition. (Ord. 811 §1, 2009)

Sec. 11-1-30. Procedure.

All procedures contained in the Colorado Municipal Annexation Act of 1965 (Section 31-12-101, et seq., C.R.S.) will be followed by the applicant concerning annexations to the City. The City may impose additional procedural requirements from time to time by resolution of the City Council. (Ord. 811 §1, 2009)

CHAPTER 12

Zoning

Article 1 General Provisions

Sec. 12-1-10	Definitions
Sec. 12-1-20	Title
Sec. 12-1-30	Authority
Sec. 12-1-40	Purpose
Sec. 12-1-50	Interpretation
Sec. 12-1-60	Application
Sec. 12-1-70	Jurisdiction
Sec. 12-1-80	Violations
Sec. 12-1-90	Penalty
Sec. 12-1-100	Liability for damages
Sec. 12-1-110	Major activity notice

Article 2 Board of Adjustment

Sec. 12-2-10	Application procedures
Sec. 12-2-20	Public notice requirements
Sec. 12-2-30	Policy determinations
Sec. 12-2-40	Appeals; time limit
Sec. 12-2-50	Appeals; effect on proceedings
Sec. 12-2-60	Hearing; notice
Sec. 12-2-70	Court review

Article 3 Administration

Sec. 12-3-10	Review process generally
Sec. 12-3-20	Responsibility of Planning and Zoning Commission
Sec. 12-3-30	Responsibility of City Manager
Sec. 12-3-40	Responsibility of Board of Adjustment
Sec. 12-3-50	Responsibility of City Council
Sec. 12-3-60	City Manager as administrator
Sec. 12-3-70	Site permit required
Sec. 12-3-80	Application of site permit
Sec. 12-3-90	Issuance of site permit
Sec. 12-3-100	Site permit not a waiver
Sec. 12-3-110	Compliance required for site permit
Sec. 12-3-120	Site permit disapproval
Sec. 12-3-130	Plan approval with application for site permit
Sec. 12-3-140	Site permit for unplatted land
Sec. 12-3-150	Temporary site permit
Sec. 12-3-160	Time limit for variance or special review use for site and/or building permit
Sec. 12-3-170	Certificate of occupancy required; contents
Sec. 12-3-180	Application, issuance and record on file of certificate of occupancy
Sec. 12-3-190	Issuance of use permit; requirements not exempt
Sec. 12-3-200	Time limitation of use permit; when required
Sec. 12-3-210	Use permit for special review uses and variances
Sec. 12-3-220	Compliance required for completion or cancellation of use permit
Sec. 12-3-230	Continuation of nonconforming uses and structures
Sec. 12-3-240	Alteration of nonconforming uses and structures
Sec. 12-3-250	Discontinuance of nonconforming uses and structures
Sec. 12-3-260	Change of nonconforming uses and structures

Sec. 12-3-270	Destruction or restoration of nonconforming uses and structures
Sec. 12-3-280	Completion of work for nonconforming uses
Sec. 12-3-290	Screening of nonconforming use
Sec. 12-3-300	District changes of nonconforming uses
Sec. 12-3-310	Vested property rights
Sec. 12-3-320	Public hearing notices generally
Sec. 12-3-330	Lots of record

Article 4 Amendments

Sec. 12-4-10	Authorization
Sec. 12-4-20	Official zoning map
Sec. 12-4-30	Rezoning policy
Sec. 12-4-40	Zoning map amendment; application, fee
Sec. 12-4-50	Zoning map amendment; data to be submitted
Sec. 12-4-60	Zoning map amendment; hearing, notice, time limit
Sec. 12-4-70	Zoning map amendment; exemption for notice
Sec. 12-4-80	Zoning map amendment; additional street right-of-way, screening
Sec. 12-4-90	Court review of decisions
Sec. 12-4-100	Records
Sec. 12-4-110	Annexed territory

Article 5 Zoning District Regulations

Sec. 12-5-10	Established
Sec. 12-5-20	District boundaries
Sec. 12-5-30	Permitted uses
Sec. 12-5-40	Special review uses
Sec. 12-5-50	Special review uses; application
Sec. 12-5-60	Special review uses; notice
Sec. 12-5-70	Special review uses; public hearing; recommendation
Sec. 12-5-80	Special review uses; public meeting
Sec. 12-5-90	Special review uses; approval criteria and conditions
Sec. 12-5-100	Special review uses; review of decision; right to appeal
Sec. 12-5-110	Special review uses; modification after approval
Sec. 12-5-120	Permitted uses and special review uses in zoning districts

Article 6 Rural (RU) District

Sec. 12-6-10	Purpose
Sec. 12-6-20	Permitted uses
Sec. 12-6-30	Special review uses
Sec. 12-6-40	Lot size
Sec. 12-6-50	Setback requirements
Sec. 12-6-60	Lot coverage
Sec. 12-6-70	Building height
Sec. 12-6-80	Gross floor area
Sec. 12-6-90	Parking requirements
Sec. 12-6-100	Vision clearance requirements

Article 7 Residential Estate (RE) District

Sec. 12-7-10	Purpose
Sec. 12-7-20	Permitted uses
Sec. 12-7-30	Special review uses
Sec. 12-7-40	Lot size
Sec. 12-7-50	Setback requirements
Sec. 12-7-60	Lot coverage
Sec. 12-7-70	Building height

Sec. 12-7-80 Gross floor area
Sec. 12-7-90 Parking requirements
Sec. 12-7-100 Vision clearance requirements

Article 8 Residential Low-Density (RL) District

Sec. 12-8-10 Purpose
Sec. 12-8-20 Permitted uses
Sec. 12-8-30 Special review uses
Sec. 12-8-40 Lot size
Sec. 12-8-50 Setback requirements
Sec. 12-8-60 Lot coverage
Sec. 12-8-70 Building height
Sec. 12-8-80 Gross floor area
Sec. 12-8-90 Parking requirements
Sec. 12-8-100 Vision clearance requirements

Article 9 Residential Medium-Density (RM) District

Sec. 12-9-10 Purpose
Sec. 12-9-20 Permitted uses
Sec. 12-9-30 Special review uses
Sec. 12-9-40 Lot size
Sec. 12-9-50 Setback requirements
Sec. 12-9-60 Lot coverage
Sec. 12-9-70 Building height
Sec. 12-9-80 Gross floor area
Sec. 12-9-90 Parking requirements
Sec. 12-9-100 Vision clearance requirements

Article 10 Residential High-Density (RH) District

Sec. 12-10-10 Purpose
Sec. 12-10-20 Permitted uses
Sec. 12-10-30 Special review uses
Sec. 12-10-40 Lot size
Sec. 12-10-50 Setback requirements
Sec. 12-10-60 Lot coverage
Sec. 12-10-70 Building height
Sec. 12-10-80 Gross floor area
Sec. 12-10-90 Parking requirements
Sec. 12-10-100 Vision clearance requirements

Article 11 Manufactured Homes (Mfg-H) District

Sec. 12-11-10 Purpose
Sec. 12-11-20 Permitted uses
Sec. 12-11-30 Special review uses
Sec. 12-11-40 Lot size
Sec. 12-11-50 Setback requirements
Sec. 12-11-60 Lot coverage
Sec. 12-11-70 Building height
Sec. 12-11-80 Gross floor area
Sec. 12-11-90 Parking requirements
Sec. 12-11-100 Vision clearance requirements

Article 12 Commercial Highway (CH) District

Sec. 12-12-10 Purpose
Sec. 12-12-20 Permitted uses

Sec. 12-12-30	Special review uses
Sec. 12-12-40	Lot size
Sec. 12-12-50	Setback requirements
Sec. 12-12-60	Lot coverage
Sec. 12-12-70	Building height
Sec. 12-12-80	Gross floor area
Sec. 12-12-90	Parking requirements
Sec. 12-12-100	Vision clearance requirements

Article 13 Commercial Business (CB) District

Sec. 12-13-10	Purpose
Sec. 12-13-20	Permitted uses
Sec. 12-13-30	Special review uses
Sec. 12-13-40	Lot size
Sec. 12-13-50	Setback requirements
Sec. 12-13-60	Lot coverage
Sec. 12-13-70	Building height
Sec. 12-13-80	Gross floor area
Sec. 12-13-90	Parking requirements

Article 14 Industrial (I) District

Sec. 12-14-10	Purpose
Sec. 12-14-20	Permitted uses
Sec. 12-14-30	Special review uses
Sec. 12-14-40	Lot size
Sec. 12-14-50	Setback requirements
Sec. 12-14-60	Lot coverage
Sec. 12-14-70	Building height
Sec. 12-14-80	Gross floor area
Sec. 12-14-90	Parking requirements
Sec. 12-14-100	Vision clearance requirements

Article 15 Manufactured Home Single-Wide (MSW) District

<i>Division 1</i>	<i>MSW District</i>
Sec. 12-15-10	Purpose
Sec. 12-15-20	Permitted uses
Sec. 12-15-30	Special review uses
Sec. 12-15-40	Lot size
Sec. 12-15-50	Setback requirements
Sec. 12-15-60	Lot coverage
Sec. 12-15-70	Height of buildings
Sec. 12-15-80	Gross floor area
Sec. 12-15-90	Vision clearance requirements
Sec. 12-15-100	Supplementary provisions
<i>Division 2</i>	<i>Manufactured Home Single-Wide Parks</i>
Sec. 12-15-210	License; site plan requirement
Sec. 12-15-220	Site selection criteria
Sec. 12-15-230	Manufactured home single-wide park density
Sec. 12-15-240	Setbacks
Sec. 12-15-250	Manufactured home single-wide space requirements
Sec. 12-15-260	Access and interior roadways
Sec. 12-15-270	Walkways, paving and lighting
Sec. 12-15-280	Public sites, open space and recreation areas
Sec. 12-15-290	Off-street and on-street parking

- Sec. 12-15-300 Storage areas
- Sec. 12-15-310 Camping units
- Sec. 12-15-320 Fire protection
- Sec. 12-15-330 Utilities
- Sec. 12-15-340 Registration of occupants
- Sec. 12-15-350 Approval requirements and procedures
- Sec. 12-15-360 Building permits
- Sec. 12-15-370 Annual license required
- Sec. 12-15-380 Operations license
- Sec. 12-15-390 Penalty
- Sec. 12-15-400 Nonconforming park

Article 16 Overlay Districts

- Division 1 Historic Protection Overlay District*
- Sec. 12-16-10 Definitions
- Sec. 12-16-20 Purpose and intent
- Sec. 12-16-30 Historic registry
- Sec. 12-16-40 Monte Vista Historic Preservation Commission, established
- Sec. 12-16-50 Process for designation of historic landmark
- Sec. 12-16-60 City Council designation
- Sec. 12-16-70 Designation recordings
- Sec. 12-16-80 Monte Vista architecture
- Sec. 12-16-90 Limitations on development affecting historic landmarks
- Sec. 12-16-100 Historic property alteration permits
- Sec. 12-16-105 Exempt projects
- Division 2 1st Avenue Overlay District*
- Sec. 12-16-110 Purpose
- Sec. 12-16-120 Applicability
- Sec. 12-16-130 Standards
- Sec. 12-16-140 Review procedure
- Division 3 Central Business Overlay District*
- Sec. 12-16-210 Purpose
- Sec. 12-16-220 Applicability and standards

Article 17 Supplementary Regulations

- Sec. 12-17-10 Accessory uses and structures
- Sec. 12-17-20 Temporary uses
- Sec. 12-17-30 Landscaping
- Sec. 12-17-40 Architectural and placement standards
- Sec. 12-17-50 Building height exceptions
- Sec. 12-17-60 Projections from buildings
- Sec. 12-17-70 Vision clearance
- Sec. 12-17-80 Screening
- Sec. 12-17-90 Animals
- Sec. 12-17-100 Manufactured homes
- Sec. 12-17-110 Storage and parking of commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, buses, trailers and similar units
- Sec. 12-17-120 Home occupations
- Sec. 12-17-130 Drive-in facilities
- Sec. 12-17-140 Extractive industries and salvage yards
- Sec. 12-17-150 Commercial Mobile Radio Systems (CMRS)

Article 18 Planned Unit Development

- Sec. 12-18-10 Purpose

Sec. 12-18-20	Scope
Sec. 12-18-30	Standards
Sec. 12-18-40	Preapplication conference
Sec. 12-18-50	Preliminary development plan; application
Sec. 12-18-60	Preliminary development plan; review and approval procedure
Sec. 12-18-70	Submission of final development plan
Sec. 12-18-80	Specifications
Sec. 12-18-90	Review and recording
Sec. 12-18-100	Building permit and certificate of occupancy issuance
Sec. 12-18-110	Final development plan; development schedule, compliance required, extension
Sec. 12-18-120	Amendment procedure
Sec. 12-18-130	Completion of PUD
Sec. 12-18-140	Changes restricted

Article 19 Off-Street Parking and Loading

Sec. 12-19-10	Generally
Sec. 12-19-20	Buildings and uses not designated
Sec. 12-19-30	Multiple uses in single structure or parcel
Sec. 12-19-40	Joint use
Sec. 12-19-50	Location restriction
Sec. 12-19-60	Use restriction
Sec. 12-19-70	Plan required; contents
Sec. 12-19-80	Design requirements for parking lots
Sec. 12-19-90	Parking lots; completion time
Sec. 12-19-100	General parking requirements
Sec. 12-19-110	Parking requirements for specific uses
Sec. 12-19-120	Loading
Sec. 12-19-130	Off-street stacking

Article 20 Signs

Sec. 12-20-10	Purpose and intent
Sec. 12-20-20	Definitions
Sec. 12-20-30	Sign permits
Sec. 12-20-40	Sign exemptions
Sec. 12-20-50	Prohibited signs
Sec. 12-20-60	Administration and enforcement
Sec. 12-20-70	Measurement of sign area and height
Sec. 12-20-80	Sign design
Sec. 12-20-90	Sign installation and maintenance
Sec. 12-20-100	Standards for specific types of signs
Sec. 12-20-110	Sign standards by zone district

Article 21 Adult-Oriented Businesses

Sec. 12-21-10	Restricted locations
Sec. 12-21-20	Restricted hours of operation
Sec. 12-21-30	Minimum age limitations
Sec. 12-21-40	Signs
Sec. 12-21-50	License; applications
Sec. 12-21-55	Medical marijuana businesses
Sec. 12-21-60	Violations and penalties

Article 22 Flood Prevention and Protection

<i>Division 1</i>	<i>General Provisions</i>
Sec. 12-22-1	Statutory authorization

Sec. 12-22-2	Findings of fact
Sec. 12-22-3	Statement of purpose
Sec. 12-22-4	Methods for reducing flood losses
Sec. 12-22-10	Definitions
Sec. 12-22-20	Application of Article
Sec. 12-22-30	Basis for establishing areas of special flood hazard
Sec. 12-22-40	Compliance
Sec. 12-22-50	Abrogation and greater restrictions
Sec. 12-22-60	Interpretation
Sec. 12-22-70	Warning and disclaimer of liability
Sec. 12-22-80	Severability
<i>Division 2</i>	<i>Administration</i>
Sec. 12-22-110	Establishment of permit
Sec. 12-22-120	Designation of administrator
Sec. 12-22-130	Duties and responsibilities of administrator
Sec. 12-22-140	Variance; procedure
Sec. 12-22-150	Conditions of variances
<i>Division 3</i>	<i>Flood Hazard Reduction</i>
Sec. 12-22-210	Anchoring
Sec. 12-22-220	Construction materials and methods
Sec. 12-22-230	Utilities
Sec. 12-22-240	Subdivision proposals
Sec. 12-22-250	Encroachments
Sec. 12-22-260	Specific standards for flood hazard reduction
Sec. 12-22-270	Below-grade residential crawlspace construction
Sec. 12-22-280	Enclosures
Sec. 12-22-290	Recreational vehicles

ARTICLE 1

General Provisions

Sec. 12-1-10. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult-oriented business means a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified anatomical areas as the primary attraction to the premises. The term *adult-oriented business* includes, but is not limited to, bookstores, video stores, gift stores, cabarets, motels, hotels, theaters, nightclubs and similar establishments.

Alley means a minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

Animal day care facility means an indoor establishment that cares for pet animals in the absence of the owner during daytime business hours and may provide activities such as animal training, grooming, socialization and entertainment.

Bed and breakfast means a building other than a hotel, cafe or restaurant where for compensation, directly or indirectly, short-term lodging and/or meals are provided for three (3) or more boarders and/or roomers exclusive of the occupant's family.

Board of Adjustment means the Board of Adjustment of the City.

Boardinghouse means a building other than a hotel, cafe or restaurant where for compensation, directly or indirectly, long-term lodging and/or meals are provided for three (3) or more boarders and/or roomers exclusive of the occupant's family.

Building means any structure built for the shelter or enclosure of persons, chattels or movable property of any kind and which is affixed to the land.

Building facade means the frontage of a building which faces and is most nearly parallel to a public or private street. There can be only one (1) building facade for each street upon which a building faces. If a business faces an alley, that portion of the building which is used as a business entrance shall be known as the front facade.

Building height means the vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the building.

Building Inspector means the City Manager or his or her duly authorized representative.

Business or professional office means the office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

Cafe, restaurant or cafeteria means a commercial eating establishment where snacks or meals are vended for consumption indoors on the premises.

Campground means an area for the use of overnight and transient camping, including the use of tents, campers, trailers, motor coaches and equivalent motorized or nonmotorized camping equipment. It also includes buildings and structures used for the administration and accommodation of the camping use and shall be complementary thereto.

Camping unit means any self-propelled or towed vehicle, motorized or otherwise (but excluding those defined as *mobile homes* or *manufactured home single-wide* which affix to permanent or semi-permanent foundations), and which are designed and used for travel, recreation and short-term working or living facilities.

City Manager means the Monte Vista City Manager or his or her designee.

Commercial Mobile Radio Systems (CMRS) means facilities related to any carrier or licensee whose wireless network is connected to the public switched telephone network and/or is operated for profit.

Commercial use, highway-oriented means a commercial use which is intended primarily to serve the commercial retail needs of the motorist, including but not limited to gasoline service stations, motels and restaurants.

Correctional facility means a prison or other institution where criminals are confined.

Day care facility means a place where children are kept for care for compensation.

Density means the number of dwelling units per acre of land devoted to housing and related open space.

District or zone means an area or areas for which the regulations and requirements governing use, lot and bulk of building and premises are uniform.

Dwelling, multi-unit or multi-family means a building used by three (3) or more families living independently of each other in separate living units, but not including hotels, motels or resorts.

Dwelling, one-unit means a detached principal building designed for or occupied exclusively by one (1) family as an independent living unit. The term *one-unit dwelling* shall not include *mobile home, manufactured home* or *manufactured home single-wide* as defined in this Chapter.

Dwelling, two-unit means a detached principal building designed for or occupied by two (2) families living independently of each other in separate but attached living units, but not including mobile homes or manufactured home single-wide.

Dwelling unit means one (1) room or rooms connected together constituting a separate independent housekeeping establishment for owner occupancy or rental or lease on a monthly or longer basis, physically separated from any other rooms or living units which may be in the same structure.

Employees means all persons, including proprietors, working on the premises.

Erect means to construct or allow to be constructed.

Face means the surface of a sign directed to the viewer (which may be single-face, double-face or multi-face) upon, against or through which the message is displayed or illuminated.

Family means a single individual living upon the premises as a separate, independent housekeeping unit; or a collective body of persons related by blood or marriage living together upon the premises as a separate housekeeping unit. Notwithstanding the foregoing, a *family* shall be deemed to include five (5) or more persons (but not in excess of twelve [12] persons) who are not related by blood, marriage, adoption or legal custody occupying a dwelling unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by Section 24-34-301, C.R.S.

Fence means a freestanding structure of iron, metal, chain link, brick, masonry, PVC, stone, wood or wood composition, resting on or partially buried in the ground and rising above ground level used for confinement, screening or partition purposes. The term *fence* shall include walls, hedges and similarly designed plantings that restrict vision, but it does not include the use of materials that are not generally used and/or sold specifically for fencing, such as plywood, corrugated tin or fiberglass roofing panels. Fences are allowed up to and including the property line or the interior edge of the sidewalk.

Floodplain means the same as stated in the U.S. Army Corps of Engineers Floodplain Study for the City.

Floor area, gross means the total square footage of a building measured within the exterior face of exterior walls or the centerline of walls separating two (2) abutting buildings, but excluding stairwells, elevator shafts, hallways, ornamental balconies, space occupied by heating, air conditioning or other utility equipment, and space devoted to off-street parking or loading.

Frontage means that portion of a lot, parcel, tract or block abutting a street measured by an extension of the side lot lines intersecting the street.

Grade (ground level) means the average of the finished ground level at the center of all walls of the building or at the center of the structure.

Guesthouse means an accessory structure which is physically detached from a principal dwelling unit, does not contain cooking facilities and is intended for occupancy by a guest of the family residing in the principal dwelling unit, for a short period of time. The guesthouse may be serviced through the same utility meters or connections as the principal dwelling unit and cannot be used as a rental unit.

Hedge means a fence or boundary formed by a dense row of shrubs or low trees.

Home occupation means an occupation carried on in the dwelling or an accessory building by members of the family occupying the dwelling, provided that the residence character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance or manifest any characteristic of a business in the ordinary meaning of the term, or infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

Hotel means a building used or intended to be used as living quarters for transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes pressing shop, barbershop or other service facilities for the guests for compensation.

Junk or salvage means scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old cotton, used machinery, used tools, used appliances, used fixtures, used utensils, used boxes or crates, used pipe or pipe fittings, used automobiles or airplane parts and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, and all other products subject to being dismantled or recycled.

Junkyard or salvage yard means any lot, parcel or tract used for the storage, keeping, sale or abandonment of junk and/or for the dismantling, demolition or abandonment of automobiles, other junk or parts thereof.

Kennel means a facility that boards and cares for pet animals in the absence of the owner.

Lot means a subdivision of a block or other parcel of land intended as a unit for the transfer of ownership or for development of at least sufficient size to meet minimum requirements for use, coverage and area, and to provide required yard and other open spaces. Such lot shall have frontage on an improved public street or on an approved private street, and may consist of the following (provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Chapter):

- a. A single lot of record.
- b. A portion of a lot of record.
- c. A combination of complete lots of record; complete lots of record and portions of lots of record; or portions of lots of record.
- d. A parcel of land described by metes and bounds.

Lot area means the total surface area within the lot boundaries.

Lot, corner means a lot located at the intersection of and abutting two (2) or more streets.

Lot coverage means the percent of the total lot area which may be occupied by principal and accessory structures and which includes parking lots, impervious materials, patios, decks and other structures or buildings.

Lot depth means the distance between front and rear lot lines.

Lot, double-frontage means a lot which runs through a block from street to street, and which has two (2) nonintersecting sides abutting two (2) or more streets.

Lot, interior means a lot other than a corner lot.

Lot line, front means the property line dividing a lot from the right-of-way of the street. For a corner lot, the shortest street right-of-way line shall be considered the front line.

Lot line, rear means the property line opposite the front lot line, except on a double-frontage lot.

Lot line, side means any lot line other than a front or rear lot line.

Lot of record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk, or a parcel of land, the deed for which was recorded in the office of the County Clerk prior to passage of this Chapter.

Lot width means the distance between the side lot lines of a lot, measured at right angles to the line establishing the lot depth of the established building setback line.

Manufactured home, Class A means a one-unit dwelling that:

- a. Is partially or entirely manufactured in a factory.
- b. Has not been manufactured more than three (3) years prior to its on-site placement.
- c. Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length.
- d. Is installed on an engineered permanent foundation.
- e. Has brick, wood or cosmetically equivalent exterior siding on all exterior walls, which provides a consistent facade from the bottom of the soffit (top of wall section), downward to the top of the exposed perimeter wall or foundation, or to finished grade, whichever is applicable, and has a pitched roof.
- f. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq.

Manufactured home, Class B means a one-unit dwelling that:

- a. Is partially or entirely manufactured in a factory.
- b. Has been manufactured more than three (3) years ago, but not more than ten (10) years prior to its on-site placement.
- c. Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length.
- d. Is installed on an engineered permanent foundation.

e. Has brick, wood or cosmetically equivalent exterior siding on all exterior walls, which provides a consistent facade from the bottom of the soffit (top of wall section), downward to the top of the exposed perimeter wall, foundation, or to finished grade, whichever is applicable, and has a pitched roof.

f. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq.

Manufactured home single-wide means a single-family dwelling which is a structure that:

- a. Is partially or entirely manufactured in a factory.
- b. Is a minimum size of two hundred fifty-six (256) square feet.
- c. Has brick, wood or cosmetically equivalent exterior siding and a pitched roof.
- d. Has not been manufactured more than ten (10) years prior to its on-site placement.

e. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq.

Manufactured home, single-wide park means any area under single management and ownership upon which two (2) or more manufactured homes single-wide, occupied or intended to be occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

Manufactured home space means a plot of ground within a manufactured home single-wide park designed for the accommodation of one (1) manufactured home.

Master plan means the Monte Vista Plan Element of the Rio Grande County Joint Master Plan for the City which has been officially adopted to provide long-range development policies for the City and which includes, among other things, the plan for land use, circulation and public facilities.

Mobile office means a mobile facility with or without wheels, erected upon a foundation or parked upon its wheels, assembled at a place of manufacture in whole or in part, designed and contrived for occupancy other than as a residential unit for living and sleeping purposes.

Municipality or *municipal* means cities, towns, villages and other incorporated political subdivisions, but does not include incorporated improvements districts formed for special classes of improvements.

Nonconforming sign, structure or use means a lawful existing sign, structure or use at the time this Chapter or any amendments thereto become effective which does not conform to the requirements and provisions of this Chapter.

Off-street loading space means a space located outside of a public street or alley for the discharge of passengers or a space directly accessible to the building it serves for bulk pickup and deliveries of delivery vehicles.

Off-street parking area means any parking area located wholly within the limits of one (1) or more lots.

Open space means an area devoted to the enhancement of light, air and aesthetic qualities of a neighborhood. It will also be devoted to landscaped vegetation, and no buildings or structures will be permitted unless for purposes of maintaining and/or enhancing the open space or they are relatively unnoticeable from the adjoining streets or walkways.

Permitted use means a use specifically allowed in one (1) or more of the various zone districts without the necessity of obtaining a use permit.

Person means any individual, firm, partnership, corporation, joint venture, company or association.

Pet shop means a retail establishment which sells domesticated or tamed animals, birds, reptiles and fish as household pets, as well as sells related supplies. *Pet shop* may also include as an accessory use the grooming of pets. *Pet shop* does not include the sale of large agricultural animals such as horses, cattle, pigs, sheep or goats, or the boarding of animals, birds or fish.

Planned Unit Development means a project of a single owner or a group of owners acting jointly, involving a related group of residences or businesses or industries and associated uses, planned as a single entity and therefore subject to development and regulation as one (1) land use unit rather than as an aggregation of individual buildings located on separate lots.

Planning and Zoning Commission means the officially appointed Planning and Zoning Commission of the City.

Premises means part or all of any lot, parcel or tract, or part or all of any building or structure or group of buildings or structures located thereon.

Property line means the boundary of any lot, parcel or tract, as the same is described in the conveyance to the owner, and does not include the streets or alleys which the lot, parcel or tract may abut.

Public hearing means a meeting called by a public body for which public notice has been given and which is held in a place in which the general public may attend to hear issues and express their concerns.

Right-of-way, public means all streets, roadways, sidewalks, alleys and all other areas reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel.

Roof line means the low edge of the roof or parapet.

Salvage yard. See *Junkyard*.

Screening means decorative fencing, evergreen hedges or earth berms maintained for the purpose of concealing from view the area behind the screening. When fencing is used for screening, it shall be not less than six (6) feet in height.

Setback, front means the distance from the front lot line to the nearest point of a principal or accessory structure.

Setback line means a line or lines designating the area outside of which buildings may not be erected. A setback denotes the distance that buildings are required to be placed from the property lines of a parcel of land.

Setback, rear means the distance from the rear lot line to the nearest point of a principal or accessory structure.

Setback, side means the distance from the side lot line to the nearest point of a principal or accessory structure.

Sign means any object, device, display, structure or part thereof which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.

Site-specific development plan means a final plat as described under the Final Plat Division of this Code and the procedures enacted under said Division, together with any accompanying documents described under Section 13-3-60 of this Code, unless another definition is otherwise agreed upon in writing between the City and the applicant or developer.

Special review use means a use which, although not permitted outright in a particular district, may be permitted by the City Council upon recommendation by the Planning and Zoning Commission in accordance with the standards and procedures of this Chapter.

Street means the entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and placement of utilities.

Street, arterial means any street serving major traffic movements which is designed primarily as a traffic carrier between cities or between various sections of the City, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.

Street, collector means any street designed primarily to gather traffic from local or residential streets and carry it to the arterial system.

Street, cul-de-sac means a street having one (1) end open to vehicular traffic and having one (1) end closed and terminated by a turnaround.

Street, freeway means any divided street or highway with complete access control and grade-separated interchanges with all other public streets and highways.

Street, frontage means a local street, collector street, arterial street or freeway right-of-way, which provides access to abutting properties.

Street, local means any street designated primarily to provide access to abutting property.

Structural alteration means any change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof.

Structure means anything constructed, the use of which requires location on the ground or attachment to something having a location on the ground. *Structures* do not include ditches and their appurtenances, poles, lines, cables or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, landscaping materials or fences.

Structure, accessory means a structure which is incidental or subordinate to the permitted principal structure of the property and is detached from the principal structure of the property.

Structure, principal means the main structure as distinguished from a subordinate or accessory structure.

Travel trailer means a vehicular portable structure built on a chassis designed to be towed by a standard automobile and designed to be used as a temporary living facility for travel and recreational purposes, having a body width not exceeding eight (8) feet and a length not exceeding twenty-eight (28) feet, but not necessarily having all sanitary facilities within the trailer.

Use means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

Use, accessory means a *use* which is clearly incidental and secondary to the permitted use, customarily found in connection with the principal use, and which does not change the character thereof. The accessory use shall be located upon the same ownership parcel as the principal use.

Use, principal means the main use of land as distinguished from a subordinate or accessory use.

Variance means a minimum easing of the terms of this Chapter, where such easing will not be contrary to the public interest or to the interest and purposes of this Chapter, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Chapter would result in unnecessary and undue hardship, and the condition or situation is not of so general or recurrent a nature as to make reasonable and practical the formulation of an amendment containing a general regulation for such condition or situation.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of the site-specific development plan.

Vision clearance area means a triangular area on a lot at the intersection of two (2) streets, or a street and a railroad, two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in the regulations contained in Section 12-17-70 of this Chapter. The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. Where the lot lines and intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. (Ord. 789 §18-1, 2006; Ord. 792 §2, 2007; Ord. 805 §1, 2008; Ord. 811 §1, 2009)

Sec. 12-1-20. Title.

This Chapter shall be cited as the "Zoning Ordinance of the City of Monte Vista." (Ord. 789 §18-2, 2006)

Sec. 12-1-30. Authority.

This Chapter is authorized by Section 31-23-101, et seq., C.R.S., and is declared to be in accordance with all provisions of these statutes. (Ord. 789 §18-3, 2006)

Sec. 12-1-40. Purpose.

(a) In pursuance to the authority conferred by Section 31-23-101, et seq., C.R.S., Section 19 of the City Charter and Section 2-9-10 of this Code, this Chapter is adopted for the purpose of promoting the health, safety, morals and welfare of the present and future inhabitants of the City by regulating and restricting the height, number of stories and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts and other open spaces; the density of population; and the location and use of buildings, structures and land for trade, industry, residence and other purposes.

(b) This Chapter is adopted for the purpose of promoting coordinated and sound development; encouraging innovation in residential development or renewal, so that housing demands may be met by a greater variety of types and design of housing units; providing for higher quality in site and land planning; conserving open space; and providing more efficient and attractive use of open space. (Ord. 789 §18-4, 2006)

Sec. 12-1-50. Interpretation.

(a) The provisions of this Chapter may be regarded as the minimum requirements for the promotion of public health, safety, comfort, convenience, prosperity and general welfare.

(b) This Chapter is not intended to interfere with, abrogate or annul any easements, covenants or agreements between parties; provided, however, that wherever this Chapter proposes a greater restriction upon use of buildings or land or upon the location or height of buildings or structures, or requires larger open spaces about the structures than are imposed or required by other laws, ordinances, resolutions, regulations or easements, covenants or agreements between parties, the provisions of this Chapter shall govern.

(c) Wherever the provisions of any other laws, ordinances, resolutions, regulations or easements, covenants or agreements between parties propose a greater restriction upon the use of buildings or land or upon the location or height of buildings or structures, or require larger open space about the structures than is required by this Chapter, the more restrictive requirements shall govern. (Ord. 789 §18-5, 2006)

Sec. 12-1-60. Application.

(a) No structure or premises shall be used or occupied after the effective date of the ordinance codified in this Chapter, and no structure or portion thereof shall be erected, moved, constructed, reconstructed, extended, enlarged or altered contrary to the provisions of this Chapter.

(b) No building permit shall be issued unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning regulations in effect. If any authorized agent of the City issues a building permit in violation of this Chapter or in conflict with any of the provisions herein, such permit shall be deemed null and void.

(c) No portion of a lot area, open space, off-street parking space or yard required about or in connection with any building for the purposes of complying with this Chapter may be included as a portion of a lot area, an open space, off-street parking area or yard similarly required for any other building or its use, except as provided for in Article 18 of this Code. (Ord. 789 §18-6, 2006)

Sec. 12-1-70. Jurisdiction.

The territorial jurisdiction of this Chapter shall, pursuant to state law, include all land located within the legal boundaries of the City and, limited only to control with reference to a major street plan and not otherwise, shall also include all land lying within three (3) miles of the corporate limits of the City and not located within any other municipality. (Ord. 789 §187, 2006)

Sec. 12-1-80. Violations.

If the City Manager finds, or if any person files with him or her a complaint alleging, that any of the provisions of this Chapter are being violated, he or she shall immediately investigate and, when necessary, give written notice to the person responsible to cease such violations forthwith. (Ord. 789 §18-8, 2006)

Sec. 12-1-90. Penalty.

The owner or owners of any building, buildings, premises or part thereof, where anything in violation of this Chapter exists or is placed or maintained; and any architect, builder or contractor who assists in the commission of any such violation; and all persons who violate or maintain any violation of any of the provisions of this Chapter, who fail to comply therewith or with any requirements thereof, or who build in violation of any statement of plan submitted and approved hereunder, are, for each and every violation or noncompliance, guilty of a violation of this Chapter and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 789 §18-9, 2006; Ord. 811 §1, 2009)

Sec. 12-1-100. Liability for damages.

This Chapter shall not be construed to hold the City or its authorized representatives responsible for any damage to persons or property by reason of any inspection or reinspection authorized in this Chapter. (Ord. 789 §18-10, 2006)

Sec. 12-1-110. Major activity notice.

The City is hereby exempt from the major activity notice required by Section 31-23-225, C.R.S. (Section 31-23-225, C.R.S., requires the municipality to notify the Colorado Land Use Commission, the State Geologist and the Board of County Commissioners of the county in which the improvement is located of the proposal prior to approval of any zoning change, subdivision or building permit application

associated with commercial and industrial activity consisting of five [5] or more acres). (Ord. 789 §18-11, 2006)

ARTICLE 2

Board of Adjustment

Sec. 12-2-10. Application procedures.

The application for a variance shall be made on such a form as provided by the City. The application shall be submitted to the City Manager, who shall be responsible for ensuring that a complete application has been submitted. (Ord. 789 §18-41, 2006; Ord. 811 §1, 2009)

Sec. 12-2-20. Public notice requirements.

(a) Within thirty (30) days after the City Manager receives a completed application, the Board of Adjustment shall hold a public hearing to consider the application.

(b) Public notices shall comply with Section 12-3-320 of this Chapter.

(c) Either the applicant or his or her representative must be present at the public hearing to present the application. Nonappearance may justify denial of the application. (Ord. 789 §18-42, 2006; Ord. 811 §1, 2009)

Sec. 12-2-30. Policy determinations.

(a) In granting or denying variances, the Board shall consider the following criteria and standards:

(1) Whether there are unique physical circumstances or conditions, such as exceptional irregularity, narrowness or shallowness of a piece of property at the time of the ordinance codified in this Chapter, or whether there are exceptional topographic or other physical conditions or other extraordinary and exceptional situations or conditions peculiar to the affected property.

(2) Whether the unusual circumstances or conditions exist throughout the neighborhood or district in which the property is located.

(3) Whether the hardship has been created by the applicant.

(4) Whether the grant of the requested variance will cause a significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, significantly change the character of the neighborhood or reduce the value of nearby property, impose any significant cost burden upon the City or create any significant obstacle to implementation of the zoning plan evidenced by this Chapter or by any master plan of the City.

(5) Whether the variance, if granted, will alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property.

(b) The Board of Adjustment shall have the following duties:

(1) To hear and decide such other special questions not inconsistent with the regulations contained in this Chapter, upon which the Board of Adjustment is authorized by resolution of the City.

(2) To hear and decide whether a specific use is expressly permitted in a use group as specified in Article 5 of this Chapter.

(3) To decide questions concerning the interpretation of this Chapter where any ambiguity or conflict exists or concerning the application of this Chapter to specific property.

(c) The Board shall render written decisions accompanied by findings of fact and conclusions based thereon. (Ord. 789 §18-43, 2006; Ord. 811 §1, 2009)

Sec. 12-2-40. Appeals; time limit.

(a) Appeals to the Board of Adjustment may be taken by any person aggrieved by any administrative decision based upon or made in the course of the administration or enforcement of the provisions of this Chapter. Appeals to the Board of Adjustment may also be taken by any officer, department, board or bureau of the City affected by any decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of this Chapter.

(b) Appeals pursuant to Subsection (a) above must be filed with the City Clerk within thirty (30) days of any administrative decision. (Ord. 789 §18-44, 2006)

Sec. 12-2-50. Appeals; effect on proceedings.

An appeal stays all proceedings and furtherance of the action appealed from, unless the officer from whom the appeal was taken certifies to the Board of Adjustment after the notice of appeal which was filed with him or her that, by reason of fact stated in the certificate, the stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal was taken and on due cause shown. (Ord. 789 §18-45, 2006)

Sec. 12-2-60. Hearing; notice.

The Board of Adjustment shall hold a hearing within thirty (30) days of the appeal, give due notice thereof to the parties in the manner presented by its rules and decide the same within a reasonable time. Upon hearing, any party may appeal in person or by his or her agent or attorney. (Ord. 789 §18-46, 2006)

Sec. 12-2-70. Court review.

(a) Any person applying to the courts for a review of any decision made under the terms of this Chapter shall apply for review within thirty (30) days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings.

(b) The application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(c) The City or Board of Adjustment shall be entitled to appeal any decision of the District Court under Rule 106 proceedings. (Ord. 789 §18-47, 2006)

ARTICLE 3

Administration

Sec. 12-3-10. Review process generally.

The following chart establishes the required review steps applicable to different forms of approval which may be requested. Applicants should refer to Table 12-1 below to determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of Table 12-1 applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of this Chapter under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.

Table 12-1
Review Process

<i>Approval Requested</i>	<i>Staff</i>	<i>P&Z</i>	<i>CC</i>	<i>BOA</i>
Map Amendment (Rezoning)	A	M	H	
Planned Unit Development	A	H/M	H/M	
Special Use Review	A	H	M	
Sign Permit	A			
Manufactured Home Single-Wide Parks & RV Parks	A	H	M	
Variance	A			H

Key: P&Z Planning & Zoning Commission
CC City Council
BOA Board of Adjustment
A Application Required
M Meeting Required
H Hearing Required

(Ord. 789 §18-60, 2006)

Sec. 12-3-20. Responsibility of Planning and Zoning Commission.

It is the responsibility of the Planning and Zoning Commission to review all applications for zone changes in this Chapter and special review uses, as prescribed by law and this Chapter, and to recommend action to the City Council. The Planning and Zoning Commission has no authority to approve variances from the Building Official and, if within the province of Article 2 of this Chapter, the request shall be sent forward to the Board of Adjustment for hearing. (Ord. 789 §18-61, 2006)

Sec. 12-3-30. Responsibility of City Manager.

The City Manager is charged with the interpretation and enforcement of this Chapter. Appeals from a decision of the City Manager shall be filed with the City Clerk, who shall forward the appeal with all pertinent information to the Board of Adjustment for hearing. (Ord. 789 §18-62, 2006)

Sec. 12-3-40. Responsibility of Board of Adjustment.

The Board of Adjustment shall hear and decide all questions on appeal from decisions of the City Manager and all other questions as provided in Article 2 of this Chapter. (Ord. 789 §18-63, 2006)

Sec. 12-3-50. Responsibility of City Council.

The City Council has responsibility for changes in the zoning map and changes in this Chapter. The City Council shall not hear complaints of or decide questions of interpretation or enforcement that are reserved for the Board of Adjustment. (Ord. 789 §18-64, 2006; Ord. 811 §1, 2009)

Sec. 12-3-60. City Manager as administrator.

- (a) The City Manager is designated to administer and enforce the provisions of this Chapter.
- (b) The City Manager shall have the power to make inspections of buildings and premises to carry out the duties of the enforcement of this Chapter, subject to the special provisions where stipulated in this Chapter.
- (c) Issuance of site permits requires approval of the City Manager prior to issuance.
- (d) Issuance of certificates of occupancy requires approval by the Building Inspector.
- (e) The City Manager under no circumstances is permitted to grant an exception to the actual meaning of any clause, order or regulation contained in this Chapter to any person making application to construct, move, alter or use either building, structure or land.
- (f) The City Manager under no circumstances is permitted to make changes in this Chapter or to vary the terms of this Chapter in carrying out his or her duties as City Manager. (Ord. 789 §18-65, 2006; Ord. 811 §1, 2009)

Sec. 12-3-70. Site permit required.

It shall be unlawful to begin the excavation for the construction, moving, alteration or repair (except as may be exempted in the Building Code) until a site permit has been issued for such work in accordance with the requirements of this Chapter and Section 12-3-90 below and until a building permit has been issued. Permit fees shall be waived on sidewalks installed on City property. (Ord. 789 §18-66, 2006)

Sec. 12-3-80. Application of site permit.

- (a) Every application for a site permit for construction, moving, alteration or change in the type of use or type of occupancy shall be accompanied by a written statement and plans, or plats, drawn to scale,

showing the following in sufficient detail to enable the City Manager to ascertain whether the proposed work or use is in compliance with the provisions of this Chapter.

(b) All such material is required in duplicate form and shall include:

(1) The actual shape, location and dimensions of the lot or building plot with sufficient information to locate the plot on the ground.

(2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any other buildings or other structures already on the plot.

(3) The existing and intended use of the plot and all structures upon it.

(4) Such information concerning the plot or adjoining lots or other matters as may be essential for determining whether the provisions of this Chapter and other regulations are being observed. (Ord. 789 §18-67, 2006)

Sec. 12-3-90. Issuance of site permit.

If the proposed construction, moving, alteration or use of the land, as set forth in the application for a site permit under this Article, is in conformity with the provisions of this Chapter, the City Manager shall approve the issuance of the site permit. (Ord. 789 §18-68, 2006; Ord. 811 §1, 2009)

Sec. 12-3-100. Site permit not a waiver.

Issuance of a site permit shall in no case be construed as waiving any provision of this Chapter or any other City regulation. (Ord. 789 §18-69, 2006)

Sec. 12-3-110. Compliance required for site permit.

The City Manager shall approve issuance of a site permit when the imposed conditions of this Chapter are complied with by the applicant, regardless of the effect of such a permit on contracts, such as deed covenants, deed restrictions or private agreements. (Ord. 789 §18-70, 2006; Ord. 811 §1, 2009)

Sec. 12-3-120. Site permit disapproval.

If any application for a site permit is not approved by the City Manager, the cause for such disapproval shall be stated in writing. (Ord. 789 §18-71, 2006)

Sec. 12-3-130. Plan approval with application for site permit.

Plans submitted with an application for a site permit shall be reviewed and approved by the City Manager. (Ord. 789 §18-72, 2006; Ord. 811 §1, 2009)

Sec. 12-3-140. Site permit for unplatted land.

There shall be no site permit issued on a plot which does not consist of a platted lot or lots duly approved and recorded, except that on five (5) acres or more where the use of the land is entirely for agricultural purposes, a site permit may be issued. (Ord. 789 §18-73, 2006)

Sec. 12-3-150. Temporary site permit.

(a) The City Manager may approve temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property and for construction signs.

(b) Temporary buildings or signs shall be removed prior to issuance of the certificate of occupancy. (Ord. 789 §18-74, 2006; Ord. 811 §1, 2009)

Sec. 12-3-160. Time limit for variance or special review use for site and/or building permit.

A site and/or building permit for a special review use or for a use involving variance shall be void after six (6) months from the day of issuance if no substantial construction has taken place. (Ord. 789 §18-75, 2006)

Sec. 12-3-170. Certificate of occupancy required; contents.

(a) No building or structure authorized by a building permit shall be occupied, and no change in occupancy of a building, part of a building or land shall be made until after the Building Inspector has issued a certificate of occupancy therefor.

(b) The certificate of occupancy shall not only state the information as required under the Building Code, but shall also state that the occupancy authorized has been approved by the City Manager as being in compliance with this Chapter.

(c) Occupancy other than that authorized in the certificate of occupancy is unlawful. (Ord. 789 §18-76, 2006; Ord. 811 §1, 2009)

Sec. 12-3-180. Application, issuance and record on file of certificate of occupancy.

(a) A certificate of occupancy shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after the erection or structural alteration of such buildings has been completed in conformity with the provisions of the regulations contained in this Chapter.

(b) A record of all certificates shall be kept on file in the office of the City Clerk.

(c) Copies shall be furnished on request to any persons having a property or tenancy interest in the building affected. (Ord. 789 §18-77, 2006; Ord. 811 §1, 2009)

Sec. 12-3-190. Issuance of use permit; requirements not exempt.

(a) A use permit is a document recognizing the approval of a special review use or a variance as these terms are defined in this Chapter.

(b) The issuance of a use permit may be a prerequisite to the issuance of a site permit, building permit or certificate of occupancy, but shall not alleviate the requirement for a building permit or certificate of occupancy where this requirement would otherwise exist. (Ord. 789 §18-78, 2006)

Sec. 12-3-200. Time limitation of use permit; when required.

A use permit is required after approval for all special review uses and for all variances. A use permit may have a specified time limitation attached and may impose conditions other than those which are specifically set forth in this Chapter. (Ord. 789 §18-79, 2006)

Sec. 12-3-210. Use permit for special review uses and variances.

The City Manager shall issue use permits for approved special review uses and variances. (Ord. 789 §18-80, 2006)

Sec. 12-3-220. Compliance required for completion or cancellation of use permit.

Following the issuance of a use permit, the City Manager shall ensure that, if the development is undertaken, it is completed in compliance with the permit. However, if a use permit has not been used within six (6) months after the date granted, the permit shall be automatically cancelled. (Ord. 789 §18-81, 2006)

Sec. 12-3-230. Continuation of nonconforming uses and structures.

Subject to the provisions of this Article, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which is under construction for the nonconforming use at the time of adoption of the ordinance codified in this Chapter is not an extension of a nonconforming use. (Ord. 789 §18-82, 2006)

Sec. 12-3-240. Alteration of nonconforming uses and structures.

A structure conforming as to use but nonconforming as to height, setback or coverage may be altered or extended, provided that the alteration or extension does not result in a violation of this Chapter. (Ord. 789 §18-83, 2006)

Sec. 12-3-250. Discontinuance of nonconforming uses and structures.

(a) If a nonconforming use involving a structure is discontinued from use for a period of one (1) year, further use of the property shall be for a conforming use.

(b) If a nonconforming use not involving a structure is discontinued for a period of six (6) months, further use of the property shall be for a conforming use. (Ord. 789 §18-84, 2006)

Sec. 12-3-260. Change of nonconforming uses and structures.

If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the district and, after change, it shall not be changed back again to a nonconforming use. (Ord. 789 §18-85, 2006)

Sec. 12-3-270. Destruction or restoration of nonconforming uses and structures.

(a) If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, flood, wind, explosion or act of God to an extent exceeding fifty percent (50%) of its appraised value for tax purposes, exclusive of its foundations, a future structure or use on the property shall conform to the provisions of this Chapter.

(b) If destruction is determined to be less than fifty percent (50%), restoration must be started within twelve (12) months of the calamity and completed within twenty-four (24) months of initiating restoration. (Ord. 789 §18-86, 2006)

Sec. 12-3-280. Completion of work for nonconforming uses.

Nothing contained in this Chapter shall require any change in the plans, construction, alteration or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of the ordinance codified in this Chapter; however, if the designated use will be nonconforming, it shall, for the purposes of Section 12-3-240 of this Article, be a discontinued use if not in operation within two (2) years of the date of issuance of the building permit. (Ord. 789 §18-87, 2006)

Sec. 12-3-290. Screening of nonconforming use.

A use which is nonconforming with respect to a provision for screening shall provide screening within a period of five (5) years from the date of adoption of the ordinance codified in this Chapter. (Ord. 789 §18-88, 2006)

Sec. 12-3-300. District changes of nonconforming uses.

Whenever the boundaries of a district are changed so as to transfer an area from one (1) district to another district of a different classification, the nonconforming uses described in Sections 12-3-230 through 12-3-290 above shall also apply to any nonconforming uses existing therein. (Ord. 789 §18-89, 2006)

Sec. 12-3-310. Vested property rights.

(a) Site-specific development plan. For all developments the final approval step, irrespective of its title, which occurs prior to issuance of a site permit shall be considered the site-specific development plan for purposes of Title 24, Article 68, C.R.S. Such final approval step shall include the City Council's approval of a final plat, and designated by the City Council as a portion of the site-specific development plan for the purpose of creating a vested property right together with an infrastructure improvements plan, subdivision improvements agreement and any appended documents, which are specifically approved by the City Council, concerning such final plat, for the purpose of creating such vested property rights. Such approvals may be effected after receiving the recommendation of the Planning and Zoning Commission in accordance with procedures in this Section. Said approval process includes the recorded approval of the final plat and any appended documents.

(b) Procedure. No site-specific development plan shall be approved until after a public hearing preceded by written notice of such hearing. Such notice may, at the City's option, be combined with any

notices or hearings required by the subdivision regulations or zoning regulations of the City. At such hearing, interested persons shall have an opportunity to be heard. Such hearings shall be conducted before the Planning and Zoning Commission, which shall transmit its recommendation forthwith to the City Council for final approval or disapproval. Such approval may be transmitted at the same time of any recommendation of approval or disapproval of a final plat. Notice of the time or place of the public hearing shall be sent by first-class mail, postage prepaid, with a certificate of mailing, to the applicant and owners of land within three hundred (300) feet of the platted land or project not less than twenty (20) days prior to the public hearing. Additionally, notice of the public hearing shall be published in the newspaper of general circulation within the City at least fifteen (15) days prior to such hearing.

(c) Approval; effective dates; amendments. A site-specific development plan shall be deemed approved upon the effective date of the City Council's approval of the same (and any appended referenced documents). If amendments to a site-specific development plan are proposed and approved, the effective date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site-specific development plan, unless the City Council specifically finds to the contrary and incorporates such findings in its approval of the amendment.

(d) Notice of approval. Each map, plat, site plan or the document constituting a site-specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Section 24-68-101, et seq., C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel of property affected and stating that a vested property right has been created shall be prepared by the applicant, approved by the City Manager and published once, not more than fourteen (14) days after approval of the site-specific development plan, in a newspaper of general circulation within the City before such vested property right is considered effective.

(e) Costs. In addition to any and all other fees and charges imposed by this Section, the applicant for approval of the site-specific development plan shall pay all costs occasioned to the City as a result of the site-specific development plan review, including publication notices, public hearing and review costs, at the time of recording.

(f) Revocation. The City Council may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the City Council shall provide a public hearing to the affected landowner and shall provide at least fifteen (15) days' prior written notice mailed to the property address of record in the County Assessor's office, as well as providing notice by publication. The mailed notice to the landowners shall specifically identify the terms and conditions which are not in compliance with the site-specific development plan approval. During the period of determining compliance with the terms and conditions of the site-specific development plan, the City may administratively withhold any building, utility, excavation, road cut or other City permit, and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site-specific development plan.

(g) Other provisions unaffected. Approval of a site-specific development plan shall not constitute an exemption from or a waiver of any other provisions of the subdivision regulations or zoning ordinances of the City pertaining to the development and use of property.

(h) Applicable law. A pending site-specific development plan application will be governed by the adopted laws and regulations in effect at the time the application is submitted, with the exception that the City reserves the right, pursuant to Section 24-6-102.5(2), C.R.S., to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by ordinance, for the purposes of preparing planning studies and considering land use regulations related to public health and safety, or for the purpose of promoting concurrency of the essential public infrastructure.

(i) Limitations. Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Title 24, Article 68, C.R.S. In the event of the repeal of said article or judicial determination that said article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective. (Ord. 789 §18-90, 2006; Ord. 811 §1, 2009)

Sec. 12-3-320. Public hearing notices generally.

(a) Published notice. At least fifteen (15) days prior to any public hearing which requires published notice (see Table 12-2), the City Manager shall cause to be published a notice of public hearing in the legal section of a newspaper of general circulation within the City. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration, by both address and legal description.

(b) Posted notice.

(1) At least twenty-one (21) days prior to any public hearing which requires posted notice (see Table 12-2 below), the City Manager shall cause to be prepared, and the applicant shall post a sign (one [1] per street frontage) upon the parcel under consideration which provides notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by both address and legal description. The signs shall consist of at least one (1) sign facing each adjacent public right-of-way. The fact that a parcel was not continuously posted the full period may not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.

(2) The sign shall be at least three (3) feet by four (4) feet in size, of a durable material, such as plywood, metal or particle board, with each letter being at least two (2) inches in height and being waterproof so as not to smear. The following information shall be placed on the sign:

NOTICE OF PUBLIC HEARING
MONTE VISTA BOARD OF ADJUSTMENT
(or other hearing authority, such as the City Council or the Planning and Zoning Commission)

PROPERTY OWNER: _____

ADDRESS: _____

LEGAL DESCRIPTION: _____

ACTION (E.G., VARIANCE)
REQUEST: _____

HEARING TO BE HELD: (date and time)

MONTE VISTA CITY HALL, 4 CHICO CAMINO, MONTE VISTA, COLORADO

(c) Mailed notice. At least twenty (20) days prior to any public hearing which requires notification by letter (see Table 12-2 below), the City shall cause to be sent, by first-class mail, postage prepaid, with a certificate of mailing, a letter to:

- (1) All property owners within three hundred (300) feet; and
- (2) Owners of property included within the application.

The letter shall include a vicinity map, a short narrative describing the application and an announcement of the date, time and location of the scheduled hearing. The letter shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.

Table 12-2
Public Hearing Notices

<i>Approval Requested</i>	<i>Publish</i>		<i>Post</i>	<i>PO Distance/Mail</i>
	<i>P&Z</i>	<i>CC</i>		
Map Amendment (Rezoning)		15 days	21 days	300 ft/20 days
Special Review Use	15 days		21 days	300 ft/20 days
Manufactured Home Single-Wide Park/RV Park	15 days		21 days	300 ft/20 days
Planned Unit Development		15 days	21 days	300 ft/20 days

Key: P&Z Planning & Zoning Commission
CC City Council
PO Property Owner

(Ord. 789 §18-91, 2006; Ord. 811 §1, 2009)

Sec. 12-3-330. Lots of record.

(a) In any district in which single-family dwellings are permitted, a single-family residence and customary accessory buildings may be erected on any single lot of record which exists as such at the time of adoption of the ordinance codified in this Chapter. Such a lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership.

(b) This provision shall apply even though the lot fails to meet the requirements of the district in which it is located for area or width or both; provided, however, that the district standards shall be met unless a variance to the requirements has been granted by the Board of Adjustment.

(c) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance codified in this Chapter, and part or all of the lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the lands shall be considered, for the purpose of this Chapter, to be an undivided parcel.

(d) No portion of the parcel shall be sold or used in a manner which diminishes compliance with lot width and area requirements established by this Chapter. (Ord. 789 §18-92, 2006)

ARTICLE 4

Amendments

Sec. 12-4-10. Authorization.

(a) An amendment to the text of this Chapter may be initiated by the City Council or by the Planning and Zoning Commission, pursuant to procedures established for amending an ordinance of the City.

(b) An amendment to the zoning map (rezoning) may be initiated by the City Council, by the Planning and Zoning Commission or by application of an owner of a property affected thereby within the City or his or her authorized agent, which application shall be considered only at the regularly scheduled meetings of the City Planning and Zoning Commission, and which amendment may be considered and enacted pursuant to the procedures described in this Article. (Ord. 789 §18-101, 2006)

Sec. 12-4-20. Official zoning map.

(a) The location and boundaries of the districts designated in Article 5 of this Chapter are established as shown on the map entitled "Zoning District Map of the City," and referred to as the official zoning map after the effective date of the ordinance codified in this Chapter.

(b) The official zoning map and all the notations thereon are made part of this Chapter.

(c) The signed copy of the official zoning map containing the zoning districts designated at the time of the adoption of the ordinance codified in this Chapter shall be maintained on file in the office of the City Clerk.

(d) Changes made in district boundaries or other information portrayed on the official zoning map shall be made in accordance with the provisions of this Chapter and state law.

(e) Changes shall be entered on the official zoning map promptly after the amendment has been approved by the City Council with an entry on the official zoning map.

(f) No amendment to this Chapter which involves information portrayed on the official zoning map shall become effective until after such change entries have been made on the map. (Ord. 789 §18-102, 2006)

Sec. 12-4-30. Rezoning policy.

(a) For the purpose of establishing and maintaining sound, stable and desirable development within the City, the rezoning of land is to be discouraged.

(b) Rezonings should only be considered if:

(1) The land to be rezoned was zoned in error, and as presently zoned is inconsistent with the policies and goals of the City's master plan.

(2) The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a rezoning of the area.

(3) The proposed rezoning is necessary in order to provide land for a community-related use which was not anticipated at the time of the adoption of the City's master plan, and if such rezoning will be consistent with the policies and goals of the master plan.

(4) The area for which rezoning is requested is of such a nature and so located that the proposed zone change will not adversely affect existing or anticipated uses or property values in the vicinity, and the proposed zone change will not result in land uses that are incompatible with the City's master plan.

(c) In any application for a zoning map amendment, the applicant shall carry the burden of showing that the area in question possesses physical and environmental conditions and land use characteristics compatible with the zone district requested, that the advantages of the zone district requested substantially outweigh the disadvantages to the City and neighboring land occasioned by the rezoning, and that the applicable provisions of this Chapter have been met. (Ord. 789 §18-103, 2006)

Sec. 12-4-40. Zoning map amendment; application, fee.

(a) An application for an amendment of the official zoning map shall be made on a form provided by the City.

(b) The application must be accompanied by a minimum nonrefundable review and processing fee which is on file in the office of the City Clerk. The applicant shall also pay actual costs in excess of the established fee which are incurred by the City relative to review and processing of the amendment. (Ord. 789 §18-104, 2006)

Sec. 12-4-50. Zoning map amendment; data to be submitted.

(a) Prior to any consideration for amendments to the official zoning map, the applicant shall file the following data:

(1) All data must be submitted to the City Manager at least fifteen (15) working days prior to the regularly scheduled Planning and Zoning Commission meeting.

(2) The legal description and the deed by which title was taken of the land to be rezoned; and/or a certified boundary survey by a registered land surveyor or professional engineer.

(3) A list of names and addresses of all property owners within three hundred (300) feet of the subject property.

(4) A site plan, drawn to scale of one (1) inch equals one hundred (100) feet, to include the following:

a. Title, scale and north arrow, (Name, Zone change request from ____ Zone District (existing) to ____ Zone District (proposed);

b. A vicinity map to locate the development in relation to surrounding area, streets, etc.;

c. Location and size of all existing and proposed buildings and structures on the property to be rezoned;

d. Location and size of all parking areas and spaces and all off-street loading areas on or adjacent to the property;

e. Location and size of access from a public right-of-way;

f. Location and size of all drainageways or other natural features which would affect or would have an effect on property to be zoned;

g. Location of wooded areas to be retained;

h. Zoning classification for all adjoining lots, parcels or tracts; and

i. Such other additional information required by the City Manager.

(5) A written statement setting forth the gross land area, the area to be allotted for roads and driveways, the area to be allotted to open parking and the area to be reserved as open space. All areas shall be expressed in acres.

(6) A written statement setting forth the evidence upon which the petitioner relies to set forth a reason for the requested amendment based upon the standards contained in Section 12-4-30 above, as follows:

a. Evidence that the property was not properly zoned when existing zoning was imposed;

b. Evidence that there has been a material change in the neighborhood which justifies the requested zone change;

c. Evidence that the proposed rezoning is necessary in order to provide land for a community-related use which was not anticipated at the time of the adoption of the City's master plan, and that such rezoning will be consistent with the policies and goals of the City's master plan;

d. Evidence that the proposed zone change will be in conformance with the City's master plan and tend to preserve and promote property values in the surrounding neighborhood, and that the zone change will not result in land uses that are incompatible with the City's master plan;

(7) Provide a time schedule for any contemplated new construction or uses.

(8) Explain what effect the proposed rezoning will have on existing traffic.

(9) Evidence demonstrating compliance with applicable provisions of this Chapter.

(b) In the event that the Planning and Zoning Commission deems that further information is necessary, it may require submittal of additional data, including but not limited to an environmental impact study, an economic feasibility study or any other appropriate information. If additional data is requested, the Planning and Zoning Commission may withhold review for a period not to exceed forty-five (45) days. (Ord. 789 §18-105, 2006)

Sec. 12-4-60. Zoning map amendment; hearing, notice, time limit.

(a) The City Council shall hold a public hearing on all proposed zoning map amendments after receiving the written report of recommendations from the Planning and Zoning Commission.

(b) A notice of the hearing shall be published in a newspaper of general circulation within the City at least fifteen (15) days prior to the hearing date.

(c) At least twenty-one (21) days prior to the scheduled public hearing, the applicant shall provide and post on a sign a notice declaring that rezoning is being requested. The sign shall be placed along the part of the property fronting a street. The sign shall be at least three (3) feet by four (4) feet in size, of durable material, such as plywood, metal or particle board, with each letter being at least two (2) inches in height and being waterproof so as not to smear. The following information shall be placed on the sign:

NOTICE OF PUBLIC HEARING
MONTE VISTA CITY COUNCIL

RE: ZONE CHANGE REQUEST

SITE: (address and/or legal description of property)

PRESENT ZONE: (present zoning of property)

REQUESTED ZONE: (request zoning of property)

APPLICANT(S): _____

HEARING TO BE HELD (date and time of hearing), CITY OF MONTE VISTA MUNICIPAL BUILDING, COUNCIL CHAMBERS, 4 CHICO CAMINO ST., MONTE VISTA, COLORADO

(d) A written notice of the hearing shall be sent first-class mail, postage prepaid, with a certificate of mailing, by the City at least twenty (20) days prior to the hearing date, to property owners within three hundred (300) feet of the subject property.

(e) The City Council, within thirty (30) days of the public hearing, shall approve, approve with modifications or disapprove the application. The decision of the City Council shall be transmitted to the Planning and Zoning Commission and to the applicant. (Ord. 789 §18-106, 2006; Ord. 811 §1, 2009)

Sec. 12-4-70. Zoning map amendment; exemption for notice.

When the zoning district map is in any way to be changed or amended incidental to or as a part of a general revision of this Chapter, whether the revision is made by repeal of the existing zoning ordinance and enactment of a new zoning ordinance or otherwise, the notice by mailing designated in Section 12-3-320 of this Chapter shall not be required. (Ord. 789 §18-107, 2006)

Sec. 12-4-80. Zoning map amendment; additional street right-of-way, screening.

In granting an amendment to the official zoning map, upon application by a property owner or his or her authorized agent, the City Council may require the dedication of additional street rights-of-way where an officially adopted street plan indicates a need for increased width or where the nature of the proposed development warrants increased street width. The City Council may require permanent screening or other buffering techniques to minimize conflict with residential land use. (Ord. 789 §18-108, 2006)

Sec. 12-4-90. Court review of decisions.

(a) Any person applying to the courts for a review of any decision made under the terms of this Article shall apply for review within thirty (30) days after the date of decision and is required to pay the cost of preparing a transcript of proceedings.

(b) The application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(c) The City is entitled to appeal any decision of the district court under Rule 106 proceedings. (Ord. 789 §18-109, 2006)

Sec. 12-4-100. Records.

The City Clerk shall maintain a record of amendments to the text and official zoning map of this Chapter in a form convenient for the use by the public. (Ord. 789 §18-110, 2006)

Sec. 12-4-110. Annexed territory.

(a) Zoning of land in the process of annexation may be done in accordance with the procedure and notice requirements of this Article and Section 31-12-101, et seq., C.R.S. The proposed zoning shall not be passed on final reading prior to the date when the annexation ordinance is passed on final reading, but the ordinance annexing the property can also zone the property.

(b) Any area annexed shall be brought under the provisions of this Chapter and the map thereunder within ninety (90) days from the effective date of the annexation ordinance, irrespective of any legal review which may be instituted challenging the annexation. During the ninety-day period, or such portion thereof as is required to zone the territory, site permits and building permits shall not be issued for any portion of the newly annexed area. (Ord. 789 §18-111, 2006)

ARTICLE 5

Zoning District Regulations

Sec. 12-5-10. Established.

In order to implement the provisions of this Chapter, the City establishes the following basic zoning districts:

- (1) Rural (RU).

- (2) Residential estate (RE).
- (3) Residential low-density (RL).
- (4) Residential medium-density (RM).
- (5) Residential high-density (RH).
- (6) Manufactured homes (Mfg-H).
- (7) Manufactured home single-wide (MSW).
- (8) Commercial highway (CH).
- (9) Commercial business (CB).
- (10) Industrial (I). (Ord. 789 §18-131, 2006)

Sec. 12-5-20. District boundaries.

(a) Wherever possible, district boundaries shall be the centerlines of streets, alleys, railroad rights-of-way, municipal corporation limits, section lines, lot lines, center lines of water courses or such lines extended.

(b) Where a zone district boundary divides a land parcel under a single ownership into two (2) districts, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided that the boundary adjustment is a distance of less than one hundred (100) feet.

(c) If the adjustment involves a distance of more than one hundred (100) feet, the procedures for a zoning district amendment shall be followed.

(d) In unsubdivided land or where a zone district boundary divides a lot or parcel, the location of such boundary, unless indicated by dimensions, shall be determined by scale of the zoning map.

(e) Where a zone district boundary coincides with a right-of-way line and said right-of-way is subsequently abandoned, the zone district boundary shall then follow the centerline of the former right-of-way.

(f) Land not part of public rights-of-way and which is not indicated as being in any zone district shall be considered to be included in the most restrictive adjacent zone district, even when such district is separated from the land in question by a public right-of-way. (Ord. 789 §18-132, 2006)

Sec. 12-5-30. Permitted uses.

Permitted uses are those uses specifically allowed in one (1) or more of the various zone districts without the necessity of obtaining a use permit. (Ord. 789 §18-133, 2006)

Sec. 12-5-40. Special review uses.

Although each zone district is primarily intended for a permitted, predominant type of use, such as dwellings in residential districts, there are a number of uses which may or may not be appropriate in a particular district, depending upon, for example, the location, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets and potential environmental effect. These factors may dictate that the circumstances of development should be individually reviewed. It is the purpose of this Article to provide review of such uses so that the community is assured that they are compatible with their locations and surrounding land uses and will further the purposes of this Chapter. (Ord. 789 §18-134, 2006)

Sec. 12-5-50. Special review uses; application.

(a) An application for approval of a special review use may be filed by a person having an interest in the property for which the special review use is requested and shall be made on a form provided by the City.

(b) The application must include:

(1) A nonrefundable processing fee in an amount which is on file in the office of the City Clerk, which shall be submitted with the application.

(2) A complete site plan showing the major details of the proposed development consisting of the following: location of buildings and structures, off-street parking areas, off-street loading areas, service and refuse areas, means of ingress and egress, amount of traffic generated, major landscaping or screening proposals, signs, pedestrian areas and pertinent dimensions.

(3) A time schedule for development.

(4) Zoning classification for all adjoining lots, parcels or tracts.

(5) Pertinent information about abutting property and existing land uses needed in evaluating the proposed use.

(6) Such other additional information required by the City Manager, Planning and Zoning Commission or City Council.

(7) Any other information the applicant believes will support his or her application.

(c) The applicant shall enter into a cost agreement with the City. The applicant shall be responsible for reimbursing the City for all legal, engineering, planning and other professional or consultant fees or costs related to the City's review of the application. (Ord. 789 §18-135, 2006)

Sec. 12-5-60. Special review uses; notice.

Written notice that a special review use application has been filed and that it may be reviewed during regular office hours of the City Hall will be sent to owners of property within three hundred (300) feet of the property in question. The written notice shall also specify the date, time and place of the public hearing to be held regarding the special review use application. (Ord. 789 §18-136, 2006)

Sec. 12-5-70. Special review uses; public hearing; recommendation.

(a) Within sixty (60) days after the Planning and Zoning Commission receives a completed application, the Planning and Zoning Commission shall hold a public hearing to consider the application.

(b) Public notices shall comply with Section 12-3-320 of this Chapter.

(c) Either one (1) applicant or an applicant's representative shall be present at the public hearing to present the application.

(d) The Planning and Zoning Commission shall, within thirty (30) days of the public hearing, unless a longer time is necessary for consideration of the application for reasons specifically stated by the Planning and Zoning Commission, either recommend approval of the application, in whole or in part, with or without modifications and conditions, or recommend disapproval of the application to the City Council.

(e) The recommendation of the Planning and Zoning Commission shall be transmitted to the City Council and to the applicant.

(f) All actions and proceedings shall be recorded in the minutes of the Planning and Zoning Commission. (Ord. 789 §18-137, 2006)

Sec. 12-5-80. Special review uses; public meeting.

(a) The City Council shall hold a public meeting on any proposed special review use after receiving the written report of recommendations from the Planning and Zoning Commission.

(b) The City Council shall either approve the application, in whole or in part, with or without modifications and conditions, or disapprove the application.

(c) Final approval of the special use application shall be by action of the City Council. (Ord. 789 §18-138, 2006)

Sec. 12-5-90. Special review uses; approval criteria and conditions.

(a) No special review use application shall be approved unless it is found that the application:

- (1) Complies with all requirements imposed by this Article and with all applicable written rules.
- (2) Is consistent with the objectives and purposes of the City's master plan.
- (3) Is designed to be compatible with surrounding land uses.

(b) In considering an application for a special review use, the Planning and Zoning Commission and City Council shall consider and may impose modifications or conditions concerning the following:

- (1) Size and location of site.
- (2) Internal traffic circulation and access to adjoining public streets.

- (3) Location and amount of off-street parking.
- (4) Fencing, screening and landscaped separations including open space.
- (5) Building bulk and location.
- (6) Signs and lighting.
- (7) Noise, vibration, air pollution and other environmental influences.
- (8) Impact of the proposed use on surrounding uses, with consideration given to the cumulative effect of similar actions in the area.
- (9) Adequacy and availability of public infrastructure and services. (Ord. 789 §18-139, 2006)

Sec. 12-5-100. Special review uses; review of decision; right to appeal.

(a) Any person applying to the courts for a review of any decision made under the terms of this Article shall apply for review within thirty (30) days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings.

(b) The application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(c) The City shall be entitled to appeal any decision of the district court under Rule 106 proceedings. (Ord. 789 §18-140, 2006)

Sec. 12-5-110. Special review uses; modification after approval.

No approved special review use may be substantially modified, structurally enlarged, expanded in parking area or expanded in ground area unless the site plan is amended and approved in accordance with the procedures applicable to initial approval of a special review use. (Ord. 789 §18-141, 2006)

Sec. 12-5-120. Permitted uses and special review uses in zoning districts.

- (a) Table 12-3 below indicates permitted uses and special review uses for each zoning district.
- (b) Permitted uses and special review uses may be located on the same property.

**Table 12-3
Use Chart**

<i>USE GROUPS</i>	<i>ZONING DISTRICTS</i>									
	<i>RU</i>	<i>RE</i>	<i>RL</i>	<i>RM</i>	<i>RH</i>	<i>Mfg-H</i>	<i>MSW</i>	<i>CH</i>	<i>CB</i>	<i>I</i>
Accessory buildings and uses	P	P	P	P	P	P	P	P	P	P
Adult-oriented businesses (see Article 21 of this Chapter)								SR	SR	SR
Agriculture, commercial plant crops	P							SR		SR

Airports	SR									P
Amusements, indoor								P	P	P
Amusement, outdoor								SR		
Animal day care facilities and indoor kennels	SR							P	SR	
Animal hospitals	SR							P		
Artisan and photography studios and galleries								P	P	
Automobile parking lots and parking garages								P	SR	P
Bed and breakfasts	P	SR	SR						SR	
Boardinghouses				SR	SR				SR	
Campgrounds, gun clubs and shooting ranges	P									
Car washes and auto detailing								P		SR
Cemeteries	P									
Colleges and universities	SR							SR		
Commercial establishments, including but not limited to bulk cleaning and laundry plants, lumberyards, building equipment and wholesaling services, nursery stock production, yard equipment and supply dealers, firewood operations, transportation centers, trucking services, warehouses, wholesale operations and cold storage lockers.								SR		P
Commercial services (excluding retail stores), including but not limited to: furniture, household equipment, appliance repair; lumber brokers (excluding on-site inventory), nursery stock sales; building, plumbing, electrical, landscaping contractors and equipment; and rental establishments.								P	SR	P
Community-wide sewage treatment plants, water supply and treatment plants	SR									SR
Convalescent and nursing homes				SR	P		SR			
Correctional facilities										SR
Day care centers				SR	P		SR	SR	SR	
Drive-in eating and drinking establishment								P		
Dwelling units									P	
Financial institutions								SR	P	
Gasoline sales								P	SR	
Group residences	P	SR	SR	SR	SR	SR	SR			
Hospitals, medical and dental clinics, emergency or urgent medical care centers					SR			P	SR	
Hotels and motels, including restaurants and other incidental commercial uses inside the principal building								P	P	
Housing for seasonal farm labor	P									
Indoor eating and drinking establishments								P	P	P
Indoor retail establishments								P	P	P
Manufactured home, auto, boat, truck and trailer storage, sales, repairs and rentals								SR		P

Manufactured homes Class A	P		SR	SR		P	P			
Manufactured homes Class B						P	P			
Manufactured homes single-wide							P			
Membership clubs								P	SR	
Mobile offices						P	P			
Mortuaries and funeral chapels	P							P		
Multi-unit dwellings				P	P			SR	SR	
Museums								SR	SR	SR
One-unit dwellings	P	P	P	P	SR	P	P			
Outdoor sales and repair								P		SR
Pawn shops								SR		
Personal services, including, but not limited to barbershops, beauty shops, dry-cleaning outlets, self-service laundries, shoe repair shops, printing and similar services								P	P	P
Personal services, retailing goods serving only residents of an area in which these uses are located	SR	SR	SR	SR	SR	SR	SR			
Private schools	SR	SR	SR	SR	SR	SR	SR	SR	SR	
Professional offices, including such fee-for-service establishments as legal, insurance, real estate and similar service providers.								SR	P	
Public parks, playfields and playgrounds	P	P	P	P	P	P	P	SR	SR	SR
Publicly owned buildings and uses, including schools, libraries and emergency services	SR	SR	SR	SR	SR	SR	SR	P	P	P
Radio, television and microwave transmitting, receiving or relay stations or towers - commercial mobile radio systems (See Section 12-17-150)	SR							SR		SR
Recreational, tennis clubs, swimming pools, golf courses and exhibit halls	SR	SR	SR	SR	SR	SR	SR			
Religious institutions	P	P	P	P	P	P	P	SR	SR	
Self-storage units								P		P
Two-unit dwellings				P	P	P	P			
Utility installations, electric substations, sewer lift stations, telephone exchanges, gas regulators, major transmission lines and irrigation ditch rights-of-way; not including utility offices, repair, storage or production facilities. Primary structures, such as electric substations, sewer lift stations, etc., must be located more than 100 feet from residential units and approved by the Public Works Director	P	P	P	P	P	P	P	P	P	P
Utility uses, including utility offices, repair, storage or production facilities, primary structures, such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines, must be located more than 100 feet from residential districts								SR	SR	P
Vocational and business schools	SR							SR		P

* Within the Central Business District, dwelling units are subordinate to a permitted use in an existing building,

and comprising not more than ½ of the floor area of the entire structure.

P – Permitted Use	SR – Special Review Use	Blank – Use Prohibited
Zoning Districts:	RU – Rural	RE – Residential Estate
	RL – Residential Low-Density	RM – Residential Medium-Density
	RH – Residential High-Density	Mfg-H – Manufactured Housing
	MSW – Manufactured Housing Single-Wide	CH – Commercial Highway
	CB – Commercial Business	I – Industrial

(Ord. 789 §18-142, 2006; Ord. 792 §1, 2007; Ord. 805 §2, 2008 Ord. 811 §1, 2009)

ARTICLE 6

Rural (RU) District

Sec. 12-6-10. Purpose.

The Rural (RU) District is comprised of areas which are primarily in a natural state or areas utilized for growing of crops and plant materials, or where similar farming activities are practiced. (Ord. 789 §18-151, 2006)

Sec. 12-6-20. Permitted uses.

Permitted uses in the RU District are shown on Table 12-3 above. (Ord. 789 §18-152, 2006)

Sec. 12-6-30. Special review uses.

Special review uses in the RU District are shown on Table 12-3 above. (Ord. 789 §18-153, 2006)

Sec. 12-6-40. Lot size.

Lot area and width requirements in the RU District are shown on Table 12-4 below.

Table 12-4
RU District Standards

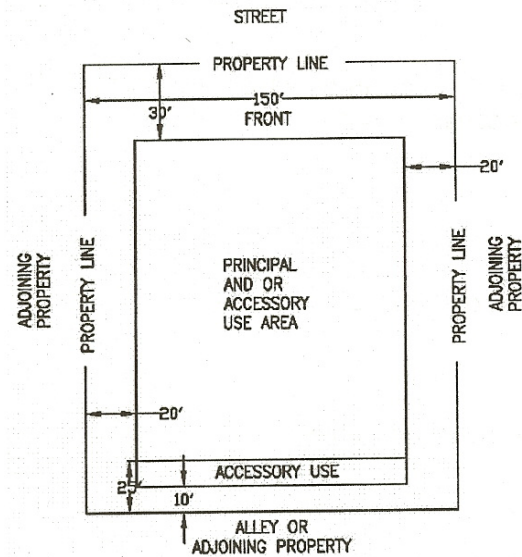
Minimum lot area	5 acres
Minimum lot width	150 feet
Minimum lot area per one-unit dwelling	5 acres
Minimum gross floor area per one-unit dwelling	1,200 square feet
Minimum front setback	30 feet
Minimum side setback from a street right-of-way	30 feet
Minimum side setback from an interior lot line	20 feet
Minimum rear setback for principal structures	25 feet
Minimum rear setback for accessory structures	10 feet
Maximum lot coverage	20%
Maximum building height	45 feet

(Ord. 789 §18-154, 2006)

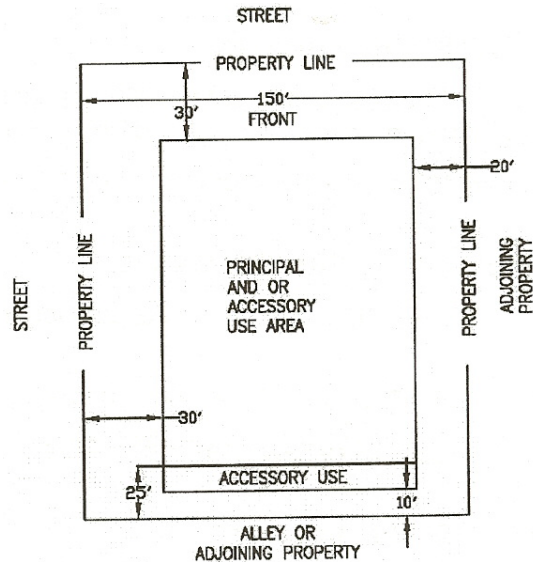
Sec. 12-6-50. Setback requirements.

Setback requirements in the RU District are shown on Table 12-4 above and Diagram 12-A below.

**Diagram 12-A
RU District Typical Lot Layout**



RU District Corner Lot Diagram



(Ord. 789 §18-155, 2006)

Sec. 12-6-60. Lot coverage.

Lot coverage requirements in the RU District are shown on Table 12-4 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-156, 2006)

Sec. 12-6-70. Building height.

Building height requirements in the RU District are shown on Table 12-4 above. (Ord. 789 §18-157, 2006)

Sec. 12-6-80. Gross floor area.

Minimum gross floor area requirements in the RU District are shown in Table 12-4 above. (Ord. 789 §18-158, 2006)

Sec. 12-6-90. Parking requirements.

For parking requirements in the RU District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-159, 2006)

Sec. 12-6-100. Vision clearance requirements.

For vision clearance requirements in the RU District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-160, 2006)

ARTICLE 7

Residential Estate (RE) District

Sec. 12-7-10. Purpose.

The Residential Estate (RE) District is comprised of areas which are primarily for large-lot one-unit residential dwellings and other necessary and compatible uses. (Ord. 789 §18-176, 2006)

Sec. 12-7-20. Permitted uses.

Permitted uses in the RE District are shown on Table 12-3 above. (Ord. 789 §18-177, 2006)

Sec. 12-7-30. Special review uses.

Special review uses in the RE District are shown on Table 12-3 above. (Ord. 789 §18-178, 2006)

Sec. 12-7-40. Lot size.

Lot area and width requirements in the RE District are shown on Table 12-5 below.

**Table 12-5
RE District Standards**

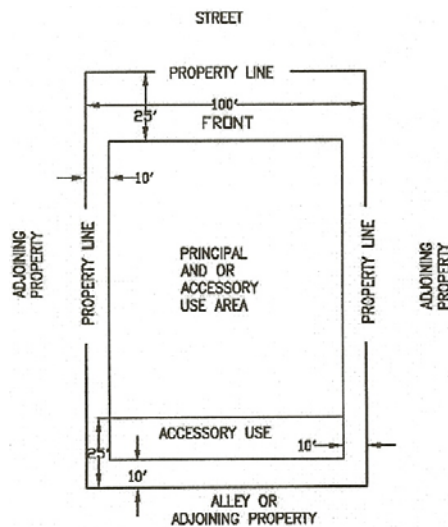
Minimum lot area	21,780 square feet
Minimum lot width	100 feet
Minimum lot width for all lots facing a cul-de-sac turnaround or curve on a minor loop street	75 feet
Minimum lot area per one-unit dwelling	½ acre
Minimum gross floor area per one-unit dwelling	1,200 square feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way	25 feet
Minimum side setback from an interior lot line	10 feet
Minimum rear setback for principal structures	25 feet
Minimum rear setback for accessory structures	10 feet
Maximum lot coverage	30%
Maximum building height	35 feet

(Ord. 789 §18-179, 2006)

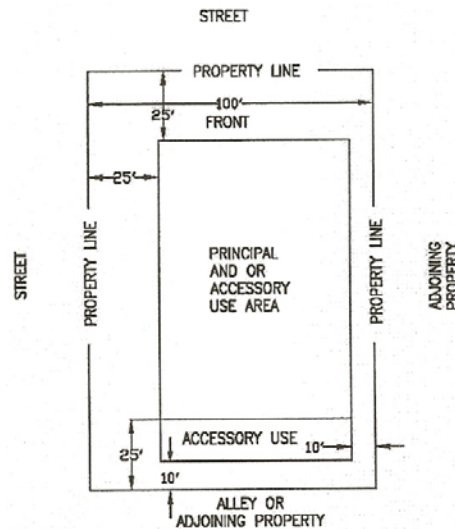
Sec. 12-7-50. Setback requirements.

Setback requirements in the RE District are shown on Table 12-5 above and Diagram 12-B below.

**Diagram 12-B
RE District Typical Lot Layout**



RE District Corner Lot Diagram



(Ord. 789 §18-180, 2006)

Sec. 12-7-60. Lot coverage.

Lot coverage requirements in the RE District are shown on Table 12-5 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-181, 2006)

Sec. 12-7-70. Building height.

Building height requirements in the RE District are shown on Table 12-5 above. (Ord. 789 §18-182, 2006)

Sec. 12-7-80. Gross floor area.

Minimum gross floor area requirements in the RE District are shown in Table 12-5 above. (Ord. 789 §18-183, 2006)

Sec. 12-7-90. Parking requirements.

For parking requirements in the RE District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-184, 2006)

Sec. 12-7-100. Vision clearance requirements.

For vision clearance requirements in the RE District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-185, 2006)

ARTICLE 8

Residential Low-Density (RL) District

Sec. 12-8-10. Purpose.

The Residential Low-Density (RL) District is comprised of areas which provide for residential development of one-unit dwelling areas in the community plus certain open space areas where similar residential development appears likely to occur. (Ord. 789 §18-201, 2006)

Sec. 12-8-20. Permitted uses.

Permitted uses in the RL District are shown on Table 12-3 above. (Ord. 789 §18-202, 2006)

Sec. 12-8-30. Special review uses.

Special review uses in the RL District are shown on Table 12-3 above. (Ord. 789 §18-203, 2006)

Sec. 12-8-40. Lot size.

Lot area and width requirements in the RL District are shown on Table 12-6 below.

Table 12-6
RL District Standards

Minimum lot area	7,000 square feet (interior lot) 8,000 square feet (corner lot)
Minimum lot width	60 feet
Minimum lot width for all lots facing a cul-de-sac turnaround or curve on a minor loop street	50 feet
Minimum lot area per one-unit dwelling	7,000 square feet
Minimum gross floor area per one-unit dwelling	1,200 square feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way (See Subsection 12-17-10(b))	25 feet for principal structure
	15 feet for accessory structure
Minimum side setback from an interior lot line	5 feet
Minimum rear setback for principal structures	25 feet
Minimum rear setback for accessory structures	5 feet
Maximum lot coverage	30%
Maximum residential density	One dwelling unit per 7,000 square feet of lot area (6 units per acre)
Maximum building height	35 feet

(Ord. 789 §18-204, 2006)

Sec. 12-8-50. Setback requirements.

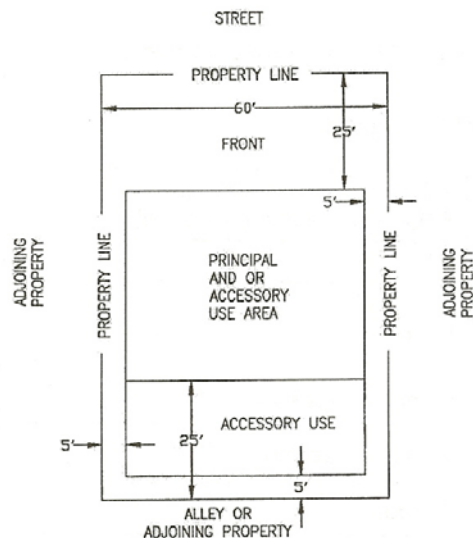
(a) Setback requirements in the RL District are shown on Table 12-6 above and Diagram 12-C below.

(b) The following exceptions to the front setback requirement for a dwelling are authorized for a lot in the RL District:

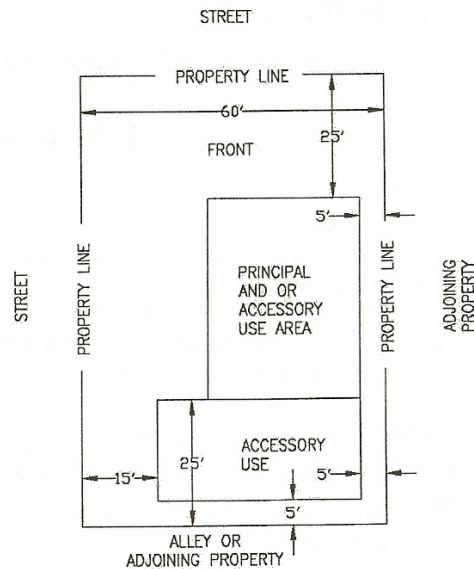
(1) If there are dwellings on both abutting lots with front setbacks of less than the required depth for the district, the front setback for the lot need not exceed the average front setback of the abutting dwellings.

(2) If there is a dwelling on one (1) abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth one halfway between the depth of the abutting lot and the required front setback depth.

Diagram 12-C
RL District Typical Lot Diagram



RL District Corner Lot Diagram



(Ord. 789 §18-205, 2006)

Sec. 12-8-60. Lot coverage.

Lot coverage requirements in the RL District are shown on Table 12-6 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-206, 2006)

Sec. 12-8-70. Building height.

Building height requirements in the RL District are shown on Table 12-6 above. (Ord. 789 §18-207, 2006)

Sec. 12-8-80. Gross floor area.

Minimum gross floor area requirements in the RL District are shown in Table 12-6 above. (Ord. 789 §18-208, 2006)

Sec. 12-8-90. Parking requirements.

For parking requirements in the RL District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-209, 2006)

Sec. 12-8-100. Vision clearance requirements.

For vision clearance requirements in the RL District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-210, 2006)

ARTICLE 9

Residential Medium-Density (RM) District

Sec. 12-9-10. Purpose.

The Residential Medium-Density (RM) District is comprised of areas which are primarily used for or permit medium-density multifamily development. (Ord. 789 §18-226, 2006)

Sec. 12-9-20. Permitted uses.

Permitted uses in the RM District are shown on Table 12-3 above. (Ord. 789 §18-227, 2006)

Sec. 12-9-30. Special review uses.

Special review uses in the RM District are shown on Table 12-3 above. (Ord. 789 §18-228, 2006)

Sec. 12-9-40. Lot size.

Lot area and width requirements in the RM district are shown on Table 12-7 below.

Table 12-7
RM District Standards

Minimum lot area	7,000 square feet (interior lot) 8,000 square feet (corner lot)
Minimum lot width	60 feet, plus 15 feet per dwelling unit over 1 unit
Minimum lot area per one-unit dwelling	3,500 square feet
Minimum gross floor area per one-unit dwelling	900 square feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way (See Subsection 12-17-10(b))	25 feet for principal structure
	15 feet for accessory structure
Minimum side setback from an interior lot line	5 feet
Minimum rear setback for principal structures	10 feet
Minimum rear setback for accessory structures	5 feet
Maximum lot coverage	35%
Maximum residential density	One dwelling unit per 3,500 square feet of lot area (12 units per acre)
Maximum building height	40 feet

(Ord. 789 §18-229, 2006)

Sec. 12-9-50. Setback requirements.

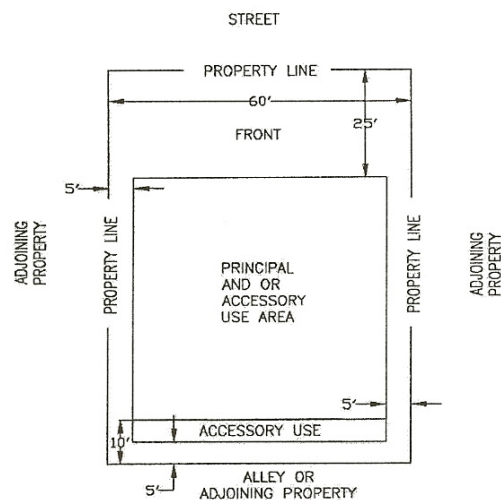
(a) Setback requirements in the RM District are shown on Table 12-7 above and Diagram 12-D below.

(b) The following exceptions to the front setback requirement for a dwelling are authorized for a lot in the RM District:

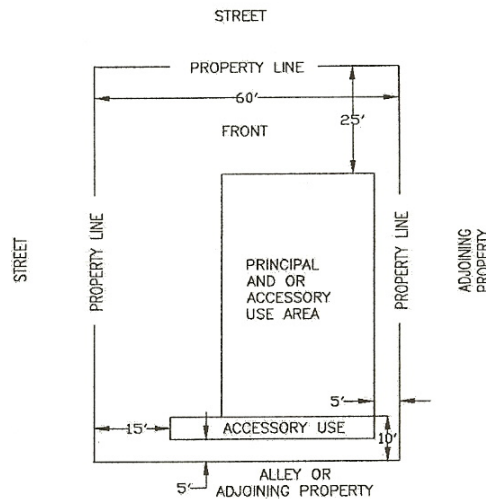
(1) If there are dwellings on both abutting lots with front setbacks of less than the required depth for the district, the front setback for the lot need not exceed the average front setback of the abutting dwellings.

(2) If there is a dwelling on one (1) abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth one halfway between the depth of the abutting lot and the required front setback depth.

Diagram 12-D
RM District Typical Lot Diagram



RM District Corner Lot Diagram



(Ord. 789 §18-230, 2006)

Sec. 12-9-60. Lot coverage.

Lot coverage requirements in the RM District are shown on Table 12-7 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-231, 2006)

Sec. 12-9-70. Building height.

Building height requirements in the RM District are shown on Table 12-7 above. (Ord. 789 §18-232, 2006)

Sec. 12-9-80. Gross floor area.

Minimum gross floor area requirements in the RM District are shown in Table 12-7 above. (Ord. 789 §18-233, 2006)

Sec. 12-9-90. Parking requirements.

For parking requirements in the RM District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-234, 2006)

Sec. 12-9-100. Vision clearance requirements.

For vision clearance requirements in the RM District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-235, 2006)

ARTICLE 10

Residential High-Density (RH) District

Sec. 12-10-10. Purpose.

The Residential High-Density (RH) District is comprised of areas primarily used for multi-unit residential development at apartment densities. It is a district to provide a high range of housing types to meet diversities in the housing market. (Ord. 789 §18-251, 2006)

Sec. 12-10-20. Permitted uses.

Permitted uses in the RH District are shown on Table 12-3 above. (Ord. 789 §18-252, 2006)

Sec. 12-10-30. Special review uses.

Special review uses in the RH District are shown on Table 12-3 above. (Ord. 789 §18-253, 2006)

Sec. 12-10-40. Lot size.

Lot area and width requirements in the RH District are shown on Table 12-8 below.

Table 12-8
RH District Standards

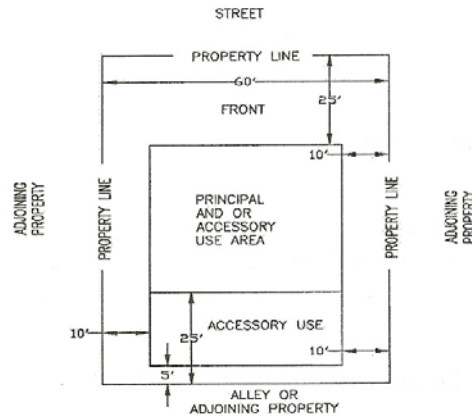
Minimum lot area	7,000 square feet (interior lot) 8,000 square feet (corner lot)
Minimum lot width	60 feet, plus 10 feet per dwelling unit over 2 units
Minimum lot area per one-unit dwelling	1,750 square feet
Minimum gross floor area per one-unit dwelling	600 square feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way (See Subsection 12-17-10(b))	25 feet for principal structure
	15 feet for accessory structure
Minimum side setback from an interior lot line	10 feet
Minimum rear setback for principal structures	25 feet
Minimum rear setback for accessory structures	5 feet
Maximum lot coverage	70%
Maximum residential density	One dwelling unit per 1,750 square feet of lot area (24 units per acre)
Maximum building height	50 feet

(Ord. 789 §18-254, 2006)

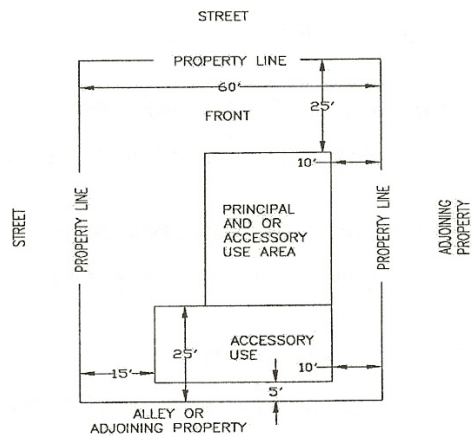
Sec. 12-10-50. Setback requirements.

Setback requirements in the RH district are shown on Table 12-8 above and Diagram 12-E below.

**Diagram 12-E
RH District Typical Lot Diagram**



RH District Corner Lot Diagram



(Ord. 789 §18-255, 2006)

Sec. 12-10-60. Lot coverage.

Lot coverage requirements in the RH District are shown on Table 12-8 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-256, 2006)

Sec. 12-10-70. Building height.

Building height requirements in the RH District are shown on Table 12-8 above. (Ord. 789 §18-257, 2006)

Sec. 12-10-80. Gross floor area.

Minimum gross floor area requirements in the RH District are shown in Table 12-8 above. (Ord. 789 §18-258, 2006)

Sec. 12-10-90. Parking requirements.

For parking requirements in the RH District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-259, 2006)

Sec. 12-10-100. Vision clearance requirements.

For vision clearance requirements in the RM District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-260, 2006)

ARTICLE 11

Manufactured Homes (Mfg-H) District

Sec. 12-11-10. Purpose.

The Manufactured Homes (Mfg-H) District is comprised of areas which provide for manufactured homes plus certain open space areas where similar residential development appears likely to occur. (Ord. 789 §18-261, 2006)

Sec. 12-11-20. Permitted uses.

Permitted uses in the Mfg-H District are shown on Table 12-3 above. (Ord. 789 §18-262, 2006)

Sec. 12-11-30. Special review uses.

Special review uses in the Mfg-H District are shown on Table 12-3 above. (Ord. 789 §18-263, 2006)

Sec. 12-11-40. Lot size.

Lot area and width requirements in the Mfg-H District are shown on Table 12-9 below.

**Table 12-9
Mfg-H District Standards**

Minimum lot area	7,000 square feet (interior lot) 8,000 square feet (corner lot)
Minimum lot width	60 feet
Minimum lot width for all lots facing a cul-de-sac turnaround or curve on a minor loop street	50 feet
Minimum lot area per one-unit dwelling	7,000 square feet

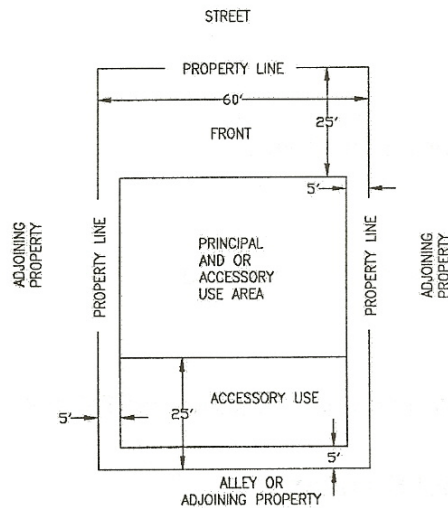
Minimum gross floor area per one-unit dwelling	1,000 square feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way (See Subsection 12-17-10(b))	25 feet for principal structure
	15 feet for accessory structure
Minimum side setback from an interior lot line	5 feet
Minimum rear setback for principal structures	25 feet
Minimum rear setback for accessory structures	5 feet
Maximum lot coverage	30%
Maximum residential density	One dwelling unit per 7,000 square feet of lot area (6 units per acre)
Maximum building height	30 feet

(Ord. 789 §18-264, 2006)

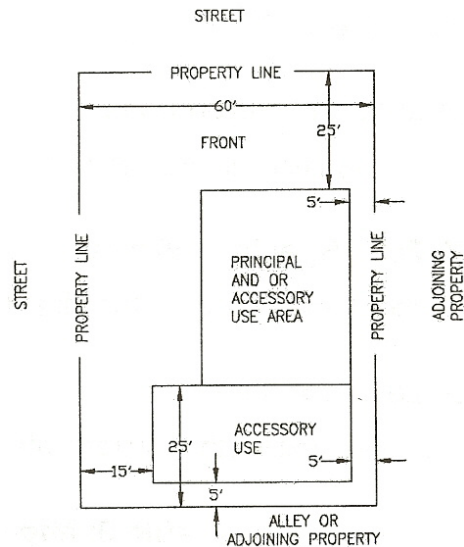
Sec. 12-11-50. Setback requirements.

Setback requirements in the Mfg-H District are shown on Table 12-9 above and Diagram 12-F below.

Diagram 12-F
Mfg-H Typical Lot Diagram



Mfg-H District Corner Lot Diagram



(Ord. 789 §18-265, 2006)

Sec. 12-11-60. Lot coverage.

Lot coverage requirements in the Mfg-H District are shown on Table 12-9 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-266, 2006)

Sec. 12-11-70. Building height.

Building height requirements in the Mfg-H District are shown on Table 12-9 above. (Ord. 789 §18-267, 2006)

Sec. 12-11-80. Gross floor area.

Minimum gross floor area requirements in the Mfg-H District are shown in Table 12-9 above. (Ord. 789 §18-268, 2006)

Sec. 12-11-90. Parking requirements.

For parking requirements in the Mfg-H District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-269, 2006)

Sec. 12-11-100. Vision clearance requirements.

For vision clearance requirements in the Mfg-H District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-270, 2006)

ARTICLE 12

Commercial Highway (CH) District

Sec. 12-12-10. Purpose.

The Commercial Highway (CH) District is comprised of areas which provide for highway-oriented commercial uses to serve both local and transient automotive and related needs. (Ord. 789 §18-276, 2006)

Sec. 12-12-20. Permitted uses.

Permitted uses in the CH District are shown on Table 12-3 above. (Ord. 789 §18-277, 2006)

Sec. 12-12-30. Special review uses.

Special review uses in the CH District are shown on Table 12-3 above. (Ord. 789 §18-278, 2006)

Sec. 12-12-40. Lot size.

Lot area and width requirements in the CH district are shown on Table 12-10 below.

**Table 12-10
CH District Standards**

Minimum lot area	7,000 square feet
Minimum lot width	50 feet

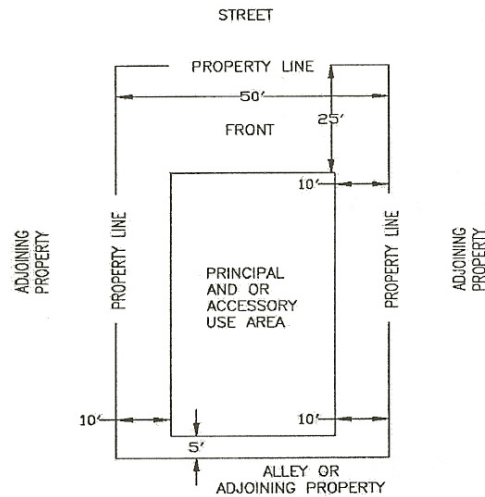
Minimum front setback	25 feet
Minimum side setback from a street right-of-way	25 feet
Minimum side setback from an interior lot line	10 feet
Minimum rear setback	5 feet
Maximum lot coverage	75%
Maximum building height	50 feet

(Ord. 789 §18-279, 2006)

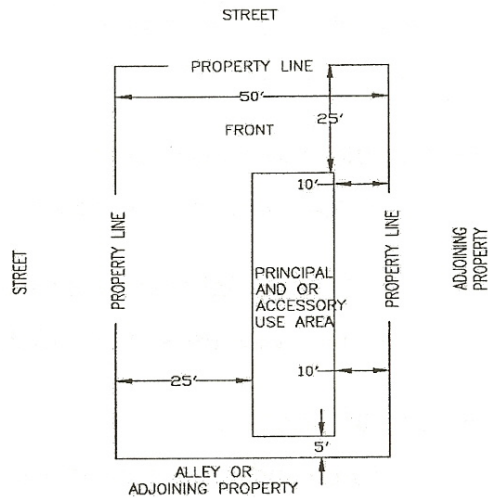
Sec. 12-12-50. Setback requirements.

Setback requirements in the CH District are shown on Table 12-10 above and Diagram 12-G below.

**Diagram 12-G
CH District Typical Lot Diagram**



CH District Corner Lot Diagram



(Ord. 789 §18-280, 2006)

Sec. 12-12-60. Lot coverage.

Lot coverage requirements in the CH District are shown on Table 12-10 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-281, 2006)

Sec. 12-12-70. Building height.

Building height requirements in the CH District are shown on Table 12-10 above. (Ord. 789 §18-282, 2006)

Sec. 12-12-80. Gross floor area.

Minimum gross floor area requirements in the CH District are shown in Table 12-10 above. (Ord. 789 §18-283, 2006)

Sec. 12-12-90. Parking requirements.

For parking requirements in the CH District, see Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-284, 2006)

Sec. 12-12-100. Vision clearance requirements.

For vision clearance requirements in the CH district, see Section 12-17-70 of this Chapter. (Ord. 789 §18-285, 2006)

ARTICLE 13

Commercial Business (CB) District

Sec. 12-13-10. Purpose.

The Commercial Business (CB) District is comprised of areas to provide a full range of retail sales and services. (Ord. 789 §18-301, 2006)

Sec. 12-13-20. Permitted uses.

Permitted uses in the CB District are shown on Table 12-3 above. (Ord. 789 §18-302, 2006)

Sec. 12-13-30. Special review uses.

Special review uses in the CB District are shown on Table 12-3 above. (Ord. 789 §18-303, 2006)

Sec. 12-13-40. Lot size.

Lot area and width requirements in the CB District are shown on Table 12-11 below.

Table 12-11
CB District Standards

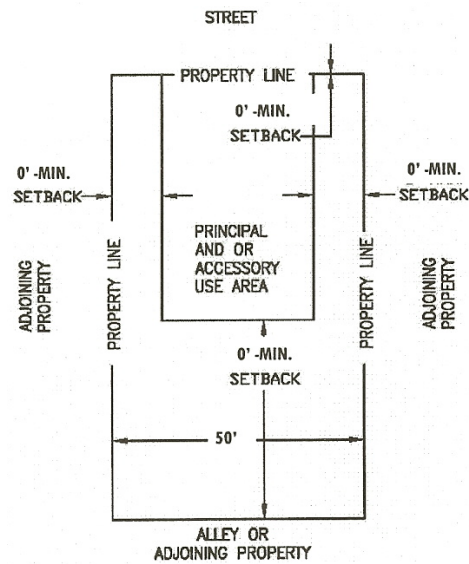
Minimum lot area	7,000 square feet
Minimum lot width	50 feet
Minimum front setback	0 feet
Minimum side setback from a street right-of-way	0 feet
Minimum side setback from an interior lot line	0 feet
Minimum rear setback	0 feet
Maximum lot coverage	40%
Maximum building height	50 feet

(Ord. 789 §18-304, 2006)

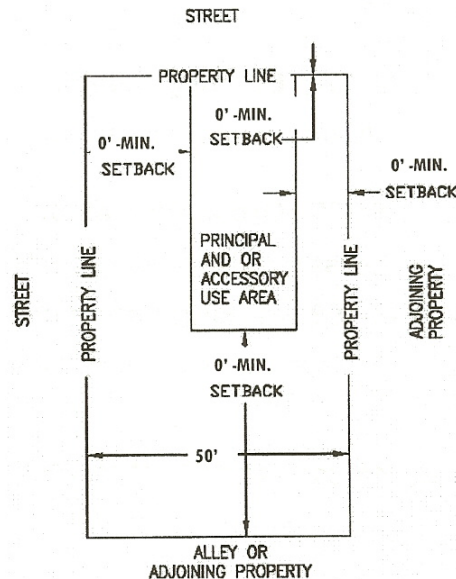
Sec. 12-13-50. Setback requirements.

Setback requirements in the CB District are shown on Table 12-11 above and Diagram 12-H below.

**Diagram 12-H
CB District Typical Lot Diagram**



CB District Corner Lot Diagram



(Ord. 789 §18-305, 2006)

Sec. 12-13-60. Lot coverage.

Lot coverage requirements in the CB District are shown on Table 12-11 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-306, 2006)

Sec. 12-13-70. Building height.

Building height requirements in the CB District are shown on Table 12-11 above. (Ord. 789 §18-307, 2006)

Sec. 12-13-80. Gross floor area.

Gross floor area requirements in the CB District are shown in Table 12-11 above. (Ord. 789 §18-308, 2006)

Sec. 12-13-90. Parking requirements.

For parking requirements in the CB District, see Article 19 of this Chapter. (Ord. 789 §18-309, 2006)

ARTICLE 14

Industrial (I) District

Sec. 12-14-10. Purpose.

The Industrial (I) District is comprised of areas which provide for nonoffensive types of manufacturing, processing and warehousing activities. (Ord. 789 §18-326, 2006)

Sec. 12-14-20. Permitted uses.

Permitted uses in the I District are shown on Table 12-3 above. (Ord. 789 §18-327, 2006)

Sec. 12-14-30. Special review uses.

Special review uses in the I District are shown on Table 12-3 above. (Ord. 789 §18-328, 2006)

Sec. 12-14-40. Lot size.

Lot area and width requirements in the I District are shown on Table 12-12 below.

**Table 12-12
I District Standards**

Minimum lot area	7,000 square feet
Minimum lot width	60 feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way	25 feet
Minimum side setback from an interior lot line	10 feet
Minimum rear setback for principal structures	20 feet
Minimum rear setback for accessory structures	5 feet
Maximum lot coverage	50%

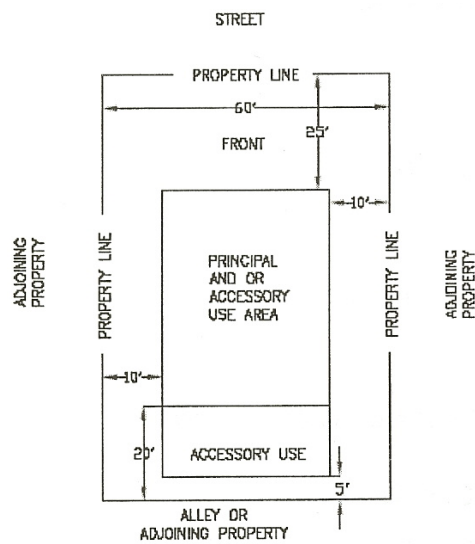
Maximum building height	50 feet

(Ord. 789 §18-329, 2006)

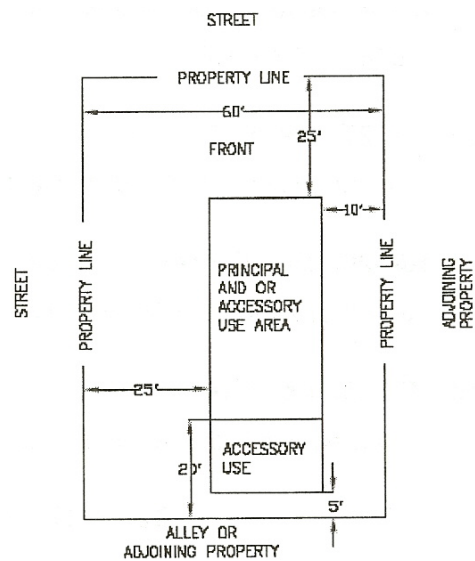
Sec. 12-14-50. Setback requirements.

Setback requirements in the I District are shown on Table 12-12 above and Diagram 12-I below.

**Diagram 12-I
I District Typical Lot Diagram**



I District Corner Lot Diagram



(Ord. 789 §18-330, 2006)

Sec. 12-14-60. Lot coverage.

Lot coverage requirements in the I District are shown on Table 12-12 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-331, 2006)

Sec. 12-14-70. Building height.

Building height requirements in the I District are shown on Table 12-12 above. (Ord. 789 §18-332, 2006)

Sec. 12-14-80. Gross floor area.

Minimum gross floor area requirements in the I District are shown in Table 12-12 above. (Ord. 789 §18-333, 2006)

Sec. 12-14-90. Parking requirements.

For parking requirements in the I District, see Article 19 of this Chapter. (Ord. 789 §18-334, 2006)

Sec. 12-14-100. Vision clearance requirements.

For vision clearance requirements in the I District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-335, 2006)

ARTICLE 15

Manufactured Home Single-Wide (MSW) District

*Division 1
MSW District*

Sec. 12-15-10. Purpose.

The Manufactured Home Single-Wide (MSW) District provides for individual manufactured home single-wide lots, manufactured home single-wide parks and similar residential development. (Ord. 789 §18-351, 2006)

Sec. 12-15-20. Permitted uses.

Permitted uses in the MSW District are shown on Table 12-3 above. (Ord. 789 §18-352, 2006)

Sec. 12-15-30. Special review uses.

Special review uses in the MSW District are shown on Table 12-3 above. (Ord. 789 §18-353, 2006)

Sec. 12-15-40. Lot size.

Lot area and width requirements for individual manufactured home single-wide lots in the MSW District are shown on Table 12-13 below.

**Table 12-13
MSW District Standards**

Minimum lot area	7,000 square feet (interior lot) 8,000 square feet (corner lot)
Minimum lot width	60 feet
Minimum lot area per dwelling unit	7,000 square feet
Minimum front setback	25 feet
Minimum side setback from a street right-of-way (See Subsection 12-17-10(b))	20 feet for principal structure
	15 feet for accessory structure
Minimum side setback from an interior lot line	9 feet 14 feet for entry sides
Minimum rear setback for principal structures	10 feet
Minimum rear setback for accessory structures	5 feet
Maximum lot coverage	35%
Maximum residential density	One dwelling unit per 7,000 square feet of lot area (6 units per acre)
Maximum building height	16 feet

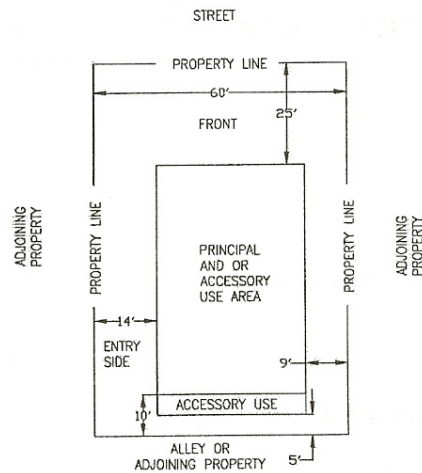
(Ord. 789 §18-354, 2006)

Sec. 12-15-50. Setback requirements.

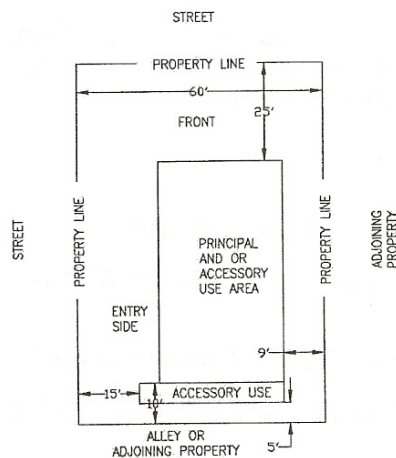
Setback requirements for individual manufactured home single-wide lots in the MSW District are shown on Table 12-13 above and Diagram 12-J below.

**Diagram 12-J
MSW District**

**MSW District
Typical Lot Diagram**



**MSW District
Corner Lot Diagram**



(Ord. 789 §18-355, 2006; Ord. 811 §1, 2009)

Sec. 12-15-60. Lot coverage.

Lot coverage requirements for individual manufactured home single-wide lots in the MSW District are shown on Table 12-13 above. Lot coverage shall be measured to include the footprint of buildings. Only the first floor square footage in structures of two (2) or more stories shall be included when calculating lot coverage. (Ord. 789 §18-356, 2006)

Sec. 12-15-70. Height of buildings.

Building height requirements for individual manufactured home single-wide lots in the MSW District are shown on Table 12-13 above. (Ord. 789 §18-357, 2006)

Sec. 12-15-80. Gross floor area.

Minimum gross floor area requirements in the MSW District are shown in Table 12-13 above. (Ord. 789 §18-358, 2006)

Sec. 12-15-90. Vision clearance requirements.

For vision clearance requirements in the MSW District, see Section 12-17-70 of this Chapter. (Ord. 789 §18-359, 2006)

Sec. 12-15-100. Supplementary provisions.

(a) All MSW units shall have a skirting of a rigid type of material manufactured for the purpose of covering the undercarriage of the manufactured home single-wide. Such skirting must be in place within sixty (60) days after the manufactured home single-wide is installed. Skirting shall be fastened according to the manufacturer's instruction and shall provide for adequate ventilation. The frame, axles, wheels, crawl space, storage area and utility connections of all manufactured homes shall be concealed from view by the skirting. The skirting shall be equal to skirting manufactured for that purpose. It shall be the duty of the person to whom the license for the manufactured home single-wide park is issued to see that the skirting is in place in compliance with this Article.

(b) Prior to occupancy, the wheels must be removed and the home placed and anchored on a suitable foundation.

(c) Each manufactured home single-wide shall be secured with supports, anchors and tie-downs fastened to the main framing as shown on Table 12-14 below. Supports, anchors and tie-downs shall be placed to resist the design wind pressures and shall be installed in compliance with local codes and the Colorado Manufactured Home Inspection Program.

**Table 12-14
Tie-Down Requirements**

<i>Length of Manufactured Home Single-Wide (feet)</i>	<i>Number of Tie-Down Sets*</i>	<i>Number of Anchors</i>
Up to 50	3	6
50 to 70	4	8
Over 70	5	10

* Sets are characterized by pairs of tie-downs.

Anchor rods shall be capable of sustaining a load requirement of three thousand one hundred fifty (3,150) pounds. (Ord. 789 §18-360, 2006)

Division 2
Manufactured Home Single-Wide Parks

Sec. 12-15-210. License; site plan requirements.

(a) It shall be unlawful for any person to construct, maintain, operate or alter any manufactured home single-wide park, as defined in Section 12-1-10 of this Chapter, within the incorporated area of the City, unless he or she holds a valid license authorized by the City Council in the name of such person for the specific manufactured home single-wide park. All applications for licenses shall be made to the City Manager, who shall issue a permit or license upon compliance by the applicant with provisions of this Chapter, any regulations adopted pursuant thereto and any other applicable legal requirements.

(b) No manufactured home single-wide park shall be occupied until all improvements have been made as submitted in the approved site plan and until proper inspections by the City Manager have been made. (Ord. 789 §18-361, 2006)

Sec. 12-15-220. Site selection criteria.

Existing health regulations must be considered prior to selection of the site for a manufactured home single-wide park. The manufactured home single-wide park shall be on a well-drained site and shall be located so that its drainage will not cause an adverse effect on surrounding areas. Manufactured home single-wide parks shall not be exposed to chronic nuisances such as noise, smoke, fumes or odors. The topography shall be favorable to minimum grading and ease of maintenance. (Ord. 789 §18-362, 2006)

Sec. 12-15-230. Manufactured home single-wide park density.

The manufactured home single-wide park shall have a gross density of not more than twelve (12) units per acre. (Ord. 789 §18-362, 2006)

Sec. 12-15-240. Setbacks.

(a) Each manufactured home single-wide park shall be landscaped except for those portions used for ingress and egress. The minimum setback requirements shall be as follows:

- (1) Abutting a state or federally designated highway or designated major arterial: fifty (50) feet.
- (2) Abutting any public right-of-way other than Subparagraph a. above, including alleys: twenty-five (25) feet.
- (3) Abutting any exterior boundary other than Subparagraph a. or b. above: fifteen (15) feet.

(b) All manufactured homes single-wide shall be parked in such spaces so that there will be a minimum of twenty (20) feet on all sides between manufactured homes single-wide. Additions to the manufactured home single-wide structure shall be considered a part of the manufactured home single-wide in measuring required setback.

(c) It shall be unlawful to allow any manufactured home single-wide to be occupied in a manufactured home single-wide park unless the manufactured home single-wide is situated on a manufactured home single-wide space. (Ord. 789 §18-362, 2006)

Sec. 12-15-250. Manufactured home single-wide space requirements.

(a) The required area for each manufactured home single-wide space does not include additional area required for access roads, off-street parking, service buildings, recreation areas, office and similar manufactured home single-wide park needs.

(b) The following minimum area requirements shall apply to manufactured home single-wide spaces:

(1) The minimum area of a manufactured home single-wide space shall be three thousand five hundred (3,500) square feet.

(2) Groups or clusters of manufactured homes single-wide may be placed on a combined lot where the area of the combined lot is

equal to the minimum lot area required for an equal number of manufactured homes single-wide on standard lots and where the minimum setbacks are honored on the combined lots perimeter line and minimum spacing requirements are complied with.

(3) Manufactured home single-wide size, parking and storage shall be considered in sizing lots. (Ord. 789 §18-362, 2006)

Sec. 12-15-260. Access and interior roadways.

(a) The site shall have at least one (1) direct access to a public street by a roadway at least forty (40) feet in width, which meets City standards.

(b) Access shall be provided to each manufactured home single-wide space by interior roadways not less than thirty-two (32) feet in width and which meet City standards. (Ord. 789 §18-362, 2006)

Sec. 12-15-270. Walkways, paving and lighting.

All walkways within the park shall be hard-surfaced with asphalt or concrete. All roadways and walkways within a manufactured home single-wide park shall be well-lighted at night. (Ord. 789 §18-362, 2006)

Sec. 12-15-280. Public sites, open space and recreation areas.

A manufactured home single-wide park shall provide an amount not less than ten percent (10%) of the gross manufactured home single-wide park area for private recreational area or areas. The area allowed for recreation shall not include any area designated as a roadway, manufactured home single-wide space or storage area or any area required for setbacks. (Ord. 789 §18-362, 2006)

Sec. 12-15-290. Off-street and on-street parking.

Areas shall be provided for the parking of motor vehicles:

(1) A minimum of two (2) off-street parking spaces for each manufactured home single-wide shall be provided for each manufactured home single-wide space. The minimum size of each such off-

street parking space shall be eight (8) feet by twenty (20) feet. Off-street parking spaces shall be surfaced with gravel, asphalt, concrete or similar substance.

(2) On-street parking may be permitted in addition to required off-street parking by widening roadways an additional ten (10) feet. (Ord. 789 §18-362, 2006)

Sec. 12-15-300. Storage areas.

(a) An outdoor storage area surfaced with gravel, asphalt, concrete or similar substance for boats, boat trailers, camping units and horse trailers shall be provided for within the manufactured home single-wide park in an amount equal to fifty (50) square feet per manufactured home single-wide space.

(b) An indoor storage area, either individual or common, for the personal use of manufactured home single-wide occupants shall be provided in an amount equal to fifty (50) square feet per manufactured home single-wide space. Space beneath the manufactured home single-wide shall not fulfill this requirement. (Ord. 789 §18-362, 2006)

Sec. 12-15-310. Camping units.

Camping units shall not be allowed in manufactured home single-wide parks unless bath and toilet facilities are provided by the manufactured home single-wide park. (Ord. 789 §18-362, 2006)

Sec. 12-15-320. Fire protection.

Every manufactured home single-wide park shall have adequate fire hydrants in good working order of such type, size and number and so located within the park as prescribed by the City Fire Department or Fire Protection District, to conform to the Fire Code as adopted by the City. (Ord. 789 §18-362, 2006; Ord. 811 §1, 2009)

Sec. 12-15-330. Utilities.

(a) Water and sewer systems. All manufactured home single-wide parks shall be responsible for installing water distribution and sewage collection systems in conformance with City standards. All such systems shall be connected to the City utility system.

(b) Plumbing standards.

(1) All plumbing in the manufactured home single-wide park shall comply with the City Building Code. Each manufactured home single-wide space shall be provided with a sewer connection which shall be closed when not linked to a manufactured home single-wide and shall be capped so as to prevent any escape of odors.

(2) The manufactured home single-wide drain shall be watertight and self-draining. This drain shall be constructed of smooth plastic pipe or of other material conforming to state manufactured home single-wide regulations.

(c) Electricity. An electrical outlet supplying at least one hundred ten (110) volts or one hundred ten/two hundred twenty (110/220) volts shall be provided for each manufactured home single-wide space. All installations shall comply with all state electrical regulations.

(d) Refuse disposal. The storage, collection and disposal of refuse in the manufactured home single-wide park shall be so managed as to conform to the City ordinances regarding refuse, trash and nuisances. Satisfactory container racks or trash bins shall be provided at permanent locations convenient to manufactured home single-wide spaces in areas screened by appropriate landscaping features. (Ord. 789 §18-362, 2006)

Sec. 12-15-340. Registration of occupants.

(a) It shall be the duty of each licensee to keep a register containing a record of all manufactured home single-wide owners and occupants located within the park. The register shall contain the following information:

(1) The name and address of the owner of each manufactured home single-wide.

(2) The name and address of the occupant of each manufactured home single-wide, if different from the owner.

(3) The make, model, year and current license number of each manufactured home single-wide.

(4) The state, territory or country issuing such license.

(5) The date of arrival and of departure of each manufactured home single-wide.

(b) The manufactured home single-wide park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of one (1) year following the departure of the registrant from the manufactured home single-wide park. (Ord. 789 §18-362, 2006)

fSec. 12-15-350. Approval requirements and procedures.

(a) Procedures for approval for a new manufactured home single-wide park.

(1) Application for approval for a new manufactured home single-wide park shall be made to the City Manager prior to the parking, storage or commencement of any construction of a new manufactured home single-wide park, and shall be accompanied by the following:

a. A site plan at a scale of one (1) inch equals one hundred (100) feet.

b. Typical plot plans for individual manufactured home single-wide spaces or camping unit spaces at a scale of one (1) inch equals ten (10) feet.

c. Typical street and walk cross-sections.

d. Grading and drainage plans.

e. The number, location and size of all manufactured home single-wide spaces; and the maximum manufactured home single-wide size for each space.

- f. The location and width of roadways, sidewalks and pedestrian ways.
- g. The location and size of vehicle parking lots and recreation areas.
- h. Source of water supply and methods to be used for sewage and refuse disposal.
- i. Plans and specifications of all utilities and other improvements constructed or to be constructed.
- j. Landscaping features.
- k. The type and size of all screening and fencing.
- l. Such further information as may be requested by the City in order to determine that the proposed manufactured home single-wide park will comply with legal requirements.

An original application fee for site approval shall accompany the above. See Land Use Fee Schedule for the application fee.

(2) The developer must file a plat of the manufactured home single-wide park covering the location of all existing proposed utilities and public lands prior to or at the time of final approval of the manufactured home single-wide park.

(3) A manufactured home single-wide park applicant shall be responsible for complying with the requirements of this Division and shall present evidence prior to final approval of any plan that necessary arrangements have been made with each of the serving utilities for the installation of facilities in compliance herewith.

(b) Planning and Zoning Commission review.

(1) Written notice that an application for a manufactured home single-wide park has been filed (and that it may be reviewed at City Hall during the regular office hours) will be sent to owners of property within three hundred (300) feet of the property in question.

(2) Within thirty (30) days after the Planning and Zoning Commission receives a completed application (unless a longer time is necessary for consideration of the application for reasons specifically stated by the Planning and Zoning Commission), the Planning and Zoning Commission shall hold a public hearing on the application.

a. A notice of said hearing shall be published in a newspaper of general circulation within the City at least fifteen (15) days prior to the hearing date.

b. A written notice of said hearing will be sent by first-class mail, postage prepaid, with a certificate of mailing, at least twenty (20) days prior to the hearing date to property owners within three hundred (300) feet of the subject property as such ownership is available in the City Clerk's office.

c. The Planning and Zoning Commission shall either approve the application in whole or in part, with or without modification and conditions, or disapprove the application. The decision of

the Planning and Zoning Commission shall be transmitted in writing to the City Council and to the applicant.

(c) City Council review.

(1) The City Council shall hold a public meeting on the application after receiving the written report of recommendations from the Planning and Zoning Commission. The City Council shall either approve the application, in whole or in part, with or without modification and conditions, or disapprove the application. The decision of the City Council shall be transmitted in writing to the Planning and Zoning Commission and to the applicant.

(2) All approved site plans for the manufactured home single-wide park, including modifications and conditions, shall be certified by the City Council and maintained on file.

(3) Any person applying to the courts for a review of any decision made under the terms of this Article shall apply for review within thirty (30) days after the date the decision is transmitted to applicant. The applicant shall be required to pay the cost of preparing a transcript of proceedings, and the application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules Of Civil Procedure. The City Council shall be entitled to appeal any decision of the district court under said Rule 106 proceedings. (Ord. 789 §18-363, 2006; Ord. 811 §1, 2009)

Sec. 12-15-360. Building permits.

All buildings and utilities to be constructed, altered or repaired in a manufactured home single-wide park shall comply with all applicable regulations of the City. Building permits shall be obtained for the construction of any structures under jurisdiction of the City Building Code. (Ord. 789 §18-363, 2006)

Sec. 12-15-370. Annual license required.

Any person making application for a manufactured home single-wide park shall obtain the approval of the City Council, and the City Manager shall issue an annual license upon compliance by the person making application with this Article with any regulations adopted pursuant thereto and with any other information as may be requested by the City Council to enable it to determine that the manufactured home single-wide park will comply with all applicable legal requirements. An annual license fee in an amount which is on file in the office of the City Clerk is required. (Ord. 789 §18-363, 2006)

Sec. 12-15-380. Operations license.

(a) License required. In order to operate a manufactured home single-wide park within the incorporated municipal boundary, a manufactured home single-wide park operations license must be secured by the park owner. Any person desiring to operate a manufactured home single-wide park must provide proof that the park complies with the provisions of this Article and any regulations adopted pursuant thereto. The person to whom a license for a manufactured home single-wide park is issued shall at all times operate the park in compliance with this Article and shall provide adequate supervision to maintain the park and its facilities and equipment in good repair and in clean and sanitary condition at all times.

(b) Application procedures. Any person desiring a manufactured home single-wide park operations license shall submit to the City Clerk an application for such license on a form to be provided by the City. The fee for the annual license is on file in the City Clerk's office.

(c) Expiration date. All licenses issued shall expire on December 31 of the year of issue. All inspections will be made at the time of application by the City Manager.

(d) Revocation. The City Council may revoke any license to maintain and operate a manufactured home single-wide park when the licensee has been found violating any provision of this Article. The license may be reissued if the circumstances leading to the violations have been remedied and the park is being maintained and operated in full compliance with the law. (Ord. 789 §18-364, 2006; Ord. 811 §1, 2009)

Sec. 12-15-390. Penalty.

A violation of any of the provisions of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. In addition, after a citation has been issued, each day shall constitute a separate violation for the above-described fine. Further, the Municipal Court may enjoin the removal of signs which do not conform to the provisions of this Code. (Ord. 789 §18-364, 2006; Ord. 811 §1, 2009)

Sec. 12-15-400. Nonconforming park.

A nonconforming manufactured home single-wide park in existence prior to the adoption date of the ordinance codified herein shall be allowed to continue as a nonconforming manufactured home single-wide park despite transfer of ownership by sale, foreclosure or other means, unless abandoned for one (1) year or more or destroyed by more than fifty percent (50%). Any additions or expansions of nonconforming manufactured home single-wide parks shall conform to the provisions of this Code. (Ord. 789 §18-365, 2006; Ord. 811 §1, 2009)

ARTICLE 16

Overlay Districts

Division 1

Historic Protection Overlay District

Sec. 12-16-10. Definitions.

(a) A property may be considered by the City for historic designation under the following criteria:

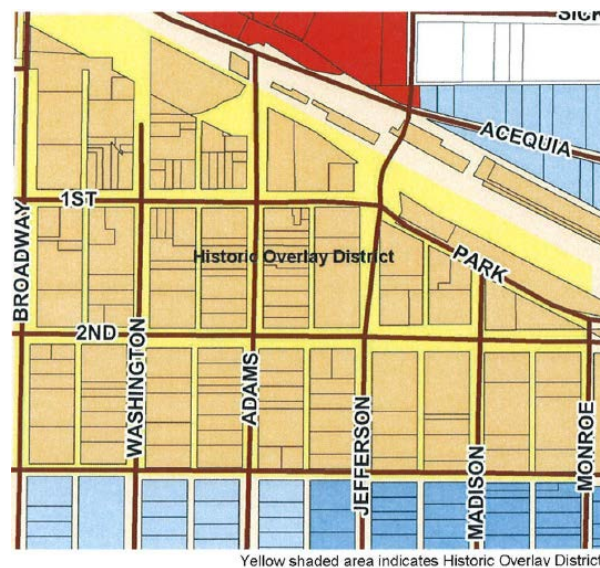
- (1) The structure is at least fifty (50) years old;
- (2) The structure has importance to the City in terms of architectural, cultural, social/ political or geographic elements; and/or
- (3) The structure is listed upon the state and/or national historical registry.

(b) Properties that are historically designated by the City shall fall within one (1) of two (2) tiers, defined as the following:

(1) Tier I: Structures residing within the City's historic overlay district and/or any structure already listed on the National Register of Historic Places or the Colorado Register of Historic Properties.

(2) Tier II: Structures meeting one (1) or more criteria for historic designation that are outside the City's historic overlay district.

(c) The City's historic overlay district consists of the area bounded by the railroad tracks on the northeast, Third Avenue on the south and Broadway Avenue on the west.



(Ord. 789 §18-366, 2006; Ord. 820, 2010)

Sec. 12-16-20. Purpose and intent.

The purpose of this Article is to identify and preserve historic structures for the educational, cultural and economic benefit of the City's citizens by:

(1) Preserving, protecting, enhancing and regulating the use of buildings and structures that are reminders of past eras, events and people important in local, state or national history, which are landmarks in the history of architecture, which provide examples of the physical surroundings in which past generations lived or which are archaeologically significant;

(2) Ensuring that the historic character is preserved in development and maintenance of such buildings and structures;

(3) Stimulating educational and cultural dimensions by fostering the knowledge of the City's heritage and cultivating civic pride in the accomplishments of the past;

(4) Enhancing property values, stabilizing neighborhoods and promoting tourist trade and interest;
and

(5) Cooperating with state and federal historical preservation efforts.

It is not the intention of this Article to preserve every old building in the City, but rather to provide a process to evaluate and protect only those buildings and structures deemed to have historical significance, striking a reasonable balance between private property rights and the public interest. This Section is meant to ensure that demolition of buildings and structures important to the City's heritage will be carefully weighed with other alternatives, and alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them. (Ord. 789 §18-367, 2006; Ord. 820, 2010)

Sec. 12-16-30. Historic registry.

The City shall maintain a registry of buildings and structures designated as "historic," meeting the definition outlined in Section 12-16-10. Such registry shall be maintained by the City Clerk and shall be made available for public inspection during regular business hours. (Ord. 789 §18-368, 2006; Ord. 820, 2010)

Sec. 12-16-40. Monte Vista Historic Preservation Commission, established.

(a) The Monte Vista Historic Preservation Commission is established with the general purpose to aid in the preservation of historic properties and districts within the City. All meetings of the Commission shall be open to the public.

(b) The Commission shall consist of five (5) residents of the Monte Vista Community and a nonvoting secretary, all of whom shall be appointed by the City Council. At least two (2) of the members shall have demonstrated expertise in real estate, construction, architecture, property development or some other land use profession.

(c) Appointments to the Commission shall be for a period of three (3) years, except when vacancies occur prior to the expiration of a regular term; in that case, the unexpired term shall be filled by appointment of the City Council and last until the expiration date of the term. In addition to the regular members, the City Council may appoint two (2) alternate members for staggered three-year terms. In the event that a regular member is temporarily unable to act owing to absence from the City, an illness, interest in a case before the Commission or any other cause, an alternate member may serve instead, with full voting power. The City Council shall have the power to remove any member of the Commission for cause after official public hearing in which the member shall have right to counsel and to confront hostile witnesses.

(d) The members of the Commission shall elect from among themselves a chairperson to serve for a term of one (1) year.

(e) The Commission has the power to recommend to the City Council designation of a property for historic preservation. A simple majority vote shall be made in accordance with Section 12-16-50 below. (Ord. 789 §18-369, 2006; Ord. 820, 2010; Ord. 823, 2010)

Sec. 12-16-50. Process for designation of historic landmark.

(a) Any individual structure or building within the City is eligible for designation as an historic landmark.

(b) Inclusion of any property in the National Register of Historic Places as provided in the National Historic Preservation Act of 1966 or state historic registry shall mean that the landmark is automatically designated a local historic landmark subject to the protections of this Article.

(c) An application for historic designation may be submitted by the property owner, by a member of the Historic Preservation Commission or by a member of the City Council. The application shall be on a form as provided by the Community Development Department and shall be submitted to the Community Development Department, which shall first review the application for eligibility under the Historic Preservation Ordinance and forward it for review to the Monte Vista Historic Preservation Commission for review and recommendation. The application must be accompanied by a minimum nonrefundable review and processing fee which is on file in the office of the City Clerk. If the application is made by anyone other than the property owner, the Community Development Department shall promptly send the owner a copy of the application via certified mail. The property owner may file a written objection to the application with the Community Development Department within thirty (30) days after the date the application is mailed to the owner.

(d) In accordance with its own rules and bylaws, the Historic Preservation Commission shall review the application for historic designation and shall make a recommendation to the City Council on whether the City Council should grant historic designation. Failure of the Historic Preservation Commission to provide a recommendation within thirty (30) days of the date that the application is sent to it for referral shall be deemed to be a recommendation for denial.

(e) Upon receipt of a recommendation from the Monte Vista Historic Preservation Commission, or after the passage of thirty (30) days from the date an application is sent to the Historic Preservation Commission for referral, the Community Development Department staff shall schedule a City Council public hearing on such historic designation applications. Notice of the public hearing shall be made in accordance with Section 12-3-320. If the property owner files a written objection to the application, City Council shall hold said hearing within forty-five (45) days of the date of receipt of the recommendation of the Historic Preservation Commission or within forty-five (45) days after the passage of thirty (30) days from the date the application is sent to the Historic Preservation Commission for referral. (Ord. 789 §18-370, 2006; Ord. 820, 2010)

Sec. 12-16-60. City Council designation.

(a) Following public hearing, the City Council may designate by ordinance historic landmarks in the City to accomplish the purposes of this Article. In making such designations, the City Council shall consider the recommendation of the Historic Preservation Commission, the testimony and evidence presented at the public hearing and the following criteria:

(1) No structure or building shall be granted historic designation unless City Council determines that the property owner will retain the ability to earn a reasonable return on the property which is the subject of the application; and

(2) The City Council shall consider whether the structure is of particular historical, architectural, cultural or archaeological significance which:

a. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or

b. Is identified with historic persons or with important events in national, state or local history; or

c. Embodies distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction or of indigenous materials or craftsmanship; or

d. Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized; or

e. Is recommended as an historic landmark by the Historic Preservation Commission.

(b) The City Council may grant historic designation in the presence of one (1) or more of the criteria set forth in Subparagraphs (2)a.—(2)e. above, but need not find that all of those criteria are met.

(c) If an application for historic designation is submitted by either a City Council member or a member of the Historic Preservation Commission and the property owner does not desire historic designation and so indicates by filing a written protest before the scheduled public hearing, historic designation shall be granted only upon a three-fourths ($\frac{3}{4}$) vote of the entire City Council.

(d) It shall be unlawful to demolish, destroy or undertake any major change to a structure which is the subject of a pending historic designation application until such time as the City Council has determined whether such designation shall or shall not be granted.

(e) The Community Development Department and the City Clerk shall maintain an inventory of all designated historic landmarks and all structures which are the subject of pending applications for historic designation. Upon receipt of an application for either a permit or a request to carry out any new construction, alteration, removal or demolition of a structure on or in an historic landmark or on a structure which is the subject of a pending application for historic designation, or a zoning change or development plan change, the Community Development Department shall either consider a permit for such work if it constitutes a "minor change" to the building or forward such permit application for "major" changes to the Historic Preservation Commission for review within thirty (30) working days, in accordance with Section 12-16-100 of this Article, pertaining to historic property alteration permits. No permit shall be issued or request granted by said department before approval for work and the work plan has been approved by the City Council. (Ord. 820, 2010)

Sec. 12-16-70. Designation recordings.

Within fifteen (15) days of a City Council designation of a historic landmark, the City shall cause the recording of such designation with the City Clerk and the Rio Grange County Clerk's Office. Such recording shall include the following:

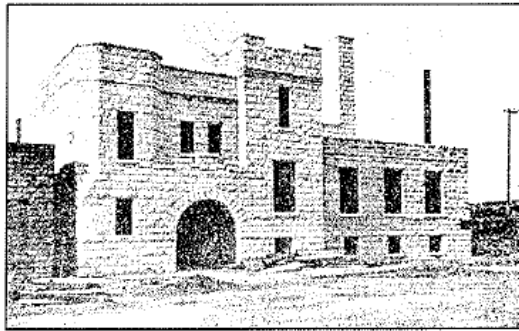
(1) Address and legal description of the real property affected by the historic landmark designation which underlies the structure which has been designated as historic;

(2) A statement that such real property is subject to Section 12-16-50 of the Monte Vista Zoning Code, pertaining to the historic landmark requirements. (Ord. 820, 2010)

Sec. 12-16-80. Monte Vista architecture.

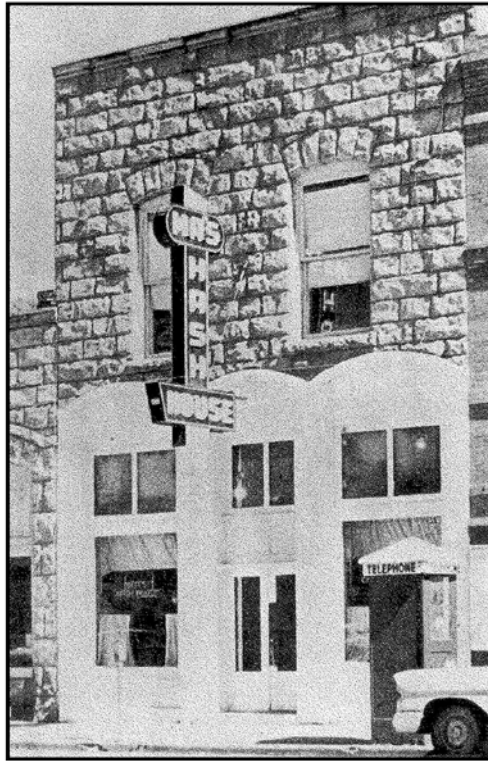
(a) For the purpose of identifying historic styles of architecture and aiding in designation of historic structures in compliance with the Section, the following architectural distinctions shall be made:

(1) Romanesque Revival period: (1840s – 1890s), characterized by round arches over windows and entries, thick masonry walls, facades with contrasting building materials, some rounded towers with conical roofs may be present; mostly used in commercial applications.



Romanesque Revival period

(2) Italianate period: (1850's – 1880's), characterized by two (2) to three (3) stories in homes, low-pitched roofs, arched/curved windows, often extensive porches; also used in commercial applications often with large eaves and decorative window areas and columns.



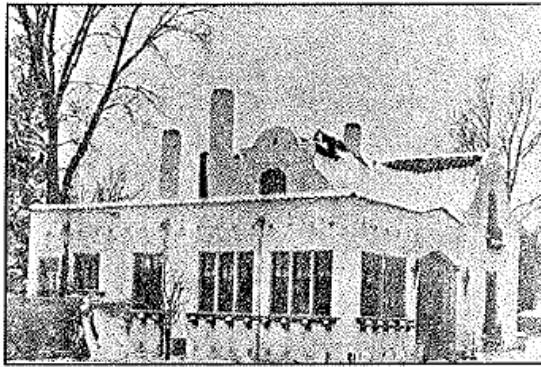
Italianate period

(3) Second Empire/Folk Victorian period: (1860s – 1910s), characterized by Italianate influence with rounded windows, but also with intricate detail in porch or window overhangs, Folk Victorian often seen with L-shaped floor plans; primarily used in housing.



Second Empire/Folk Victorian period

(4) Mission Revival period (1900s – 1940's), characterized by Mission-shaped dormers or parapets, exposed rafters, red-tiled roofs, stucco walls, arched windows and doors.



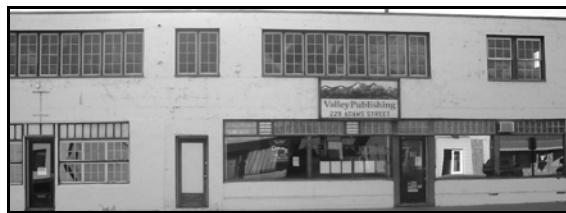
Mission Revival period

(5) Pueblo Revival period: (1912 – present), evolved out of Santa Fe, style includes flat roofs with parapeted walls, rounded walls, stucco building material, round roof beams that often extend through the exterior walls.



Pueblo Revival period

(6) Moderne period: (1925 – 1940's), characterized by smooth, rounded walls, often built in stucco, flat roofs, horizontal alignment of architectural elements and windows, some grooved portions of walls, glass block windows; usually used in commercial applications.



Moderne period

(7) Miesian period: (1920's – 1960's), characterized by simplicity in form, usually with glass over metal skeletons, usually used in commercial applications.



Miesian period

(b) Many of the buildings in Monte Vista's historic areas demonstrate a range of the identified styles, thus making it difficult to neatly classify many buildings. In identifying buildings for historic designation, this diversity in building styles will be considered in an effort to preserve this unique application of influences.

(c) Newer buildings to be constructed within identified historic districts will not be required to artificially recreate the classic styles of Monte Vista architecture, but instead develop in a manner compatible with those styles. Compatibility may be achieved in adherence instead to building form requirements of the zoning district, such as to building orientation, placement on the lot, building height and setback requirements.

(d) The following materials are prohibited for use as exterior materials within historically designated districts: prefabricated concrete panels; metal. The principal materials used on building facades should be indigenous to historic districts, including stone, brick, wood or stucco. Stucco must not be applied over stone or brick. Long, blank walls shall be avoided. (Ord. 820, 2010)

Sec. 12-16-90. Limitations on development affecting historic landmarks.

(a) No person shall carry out or cause to be carried out on any historic landmark any alteration, construction, removal or demolition, or make any changes that would impair the historic nature of the landmark without first obtaining a historic property alteration permit in accordance with this Article.

(b) Limitations shall pertain only to the external portion of an historically designated structure. Nothing in this Section shall be construed to regulate the internal space of a structure, which may be altered under the regular process of building, under Chapter 14 of this Code.

(c) Nothing in this Section shall be construed to prevent any alteration, construction, removal or demolition necessary to correct an unsafe or dangerous condition of any structure or parts thereof where such condition is declared unsafe or dangerous by the Community Development Department or local fire department, and where the proposed measures have been declared necessary by the City Manager to correct the conditions is performed. Any temporary measures required by the City under this Section may be taken without first obtaining a historic property alteration permit, but a permit is required for permanent alteration, removal or demolition of an historic landmark.

(d) If the City provides the applicant with an historic property alteration permit, the applicant must apply for a building permit within six (6) months of the date of the permit.

(e) If the City denies an historic property alteration permit, no person may submit a subsequent application for the same project within one (1) year from the date of the denial. (Ord. 820, 2010)

Sec. 12-16-100. Historic property alteration permits.

(a) An historic property alteration permit must be obtained prior to any external alteration, construction, removal or demolition impacting a historically designated property.

(b) Applications for an historic property alteration permit shall be submitted to the Community Development Department on a form provided by said department and shall contain such information required to assure full presentation of facts necessary for proper consideration of the permit. The application must be accompanied by a minimum nonrefundable review and processing fee which is on file in the office of the City Clerk. The applicant shall also pay actual costs in excess of the established fee which are incurred by the City relative to review and processing of the permit application.

(c) Permit applications for minor changes shall be determined by staff of the Community Development Department in accordance with this Article. Applications for major changes shall be submitted for consideration first by the Monte Vista Historic Preservation Commission, which may recommend to City Council approval, approval with conditions or denial of the application. City Council shall make the final decision, in accordance with this Article.

(d) The staff of the Community Development Department shall determine whether the permit application constitutes a "minor" or "major" change to the historic property.

(1) Permits for minor changes. The staff of the Community Development Department shall grant a permit for minor changes if the requested alteration consists of paint for windows and trim. Paint color must be chosen from the historic color selection and may be chosen by Community Development Department personnel and the building owner. Any person aggrieved by the determination of the Community Development Department shall have the option to appeal the Department's decision to the Board of Adjustment via the appeal procedure outlined in Article II of this Chapter.

(2) Permits for major changes. All proposed exterior work shall require a permit. Proposed work shall not adversely impact the special character or special historical, architectural or archaeological nature of the landmark or site. The staff of the Community Development Department shall collect the permit application for major changes and schedule it for hearing at a regular meeting of the Historic Preservation Commission. The Community Development Department staff shall notify the applicant of the date of the hearing, in accordance with Section 12-3-320 of this Chapter. Posted notice and mailed notice to residents within three hundred (300) feet of the site also shall be conducted in accordance with Section 12-3-320 of this Chapter. At the conclusion of the hearing, the Commission shall forward to the City Council a recommendation to approve, approve with conditions or deny a permit. Within forty-five (45) days of the hearing, the City Council shall review the recommendation and approve, approve with conditions or deny the permit in accordance with the recommendation of the Historic Preservation Commission. In the event of a denial recommendation by the Commission, the City Council may issue an approval or approval with conditions based on a vote of four (4) of its members. If the permit is denied, the reasons shall be stated in writing and furnished to the applicant. (Ord. 820, 2010; Ord. 828, 2011)

Sec. 12-16-105. Exempt projects.

Projects exempt from the permit and review processes include interior renovation. As a general rule, any project that would constitute a noticeable change to the exterior of the building should be submitted via the permit process. (Ord. 820, 2010; Ord. 828, 2011)

*Division 2
1st Avenue Overlay District*

Sec. 12-16-110. Purpose.

The 1st Avenue Overlay District is designed to protect the City's western gateway and residential neighborhood character of 1st Avenue between Batterson Street and the alley west of Morris Street. Any or all of the uses enumerated in the RL District are available for inclusion in the 1st Avenue Overlay District. (Ord. 789 §18-372, 2006; Ord. 811 §1, 2009)

Sec. 12-16-120. Applicability.

These standards shall apply only within the 1st Avenue Overlay District. This Division establishes standards and criteria to be used in the review of the development applications proposed within 1st Avenue Overlay District. In no instance shall this Code require renovation or changes to existing properties or structures when no development applications are required to be submitted. These regulations shall only be applicable when development is proposed by an applicant. (Ord. 789 §18-373, 2006)

Sec. 12-16-130. Standards.

(a) All development within the 1st Avenue Overlay District shall be consistent with the intent of the master plan and the policies therein.

(b) All development within the 1st Avenue Overlay District shall be designed in a manner such that, wherever possible, it protects the residential character of the neighborhood, including considerations of architecture, landscaping and property maintenance.

(c) Development of single vacant sites or redevelopment of existing structures within the 1st Avenue Overlay District shall be compatible with adjacent properties.

(d) The design and placement of buildings and structures shall be consistent and compatible with other buildings and structures in the 1st Avenue Overlay District.

(e) Architectural compatibility with adjacent development in the 1st Avenue Overlay District shall be provided through the use of similar colors, building materials, design details, massing, scale or architectural style, including such structural features as porches, alcoves, bay windows, broken-roof pitch lines, wood trim, shutters and other exterior decorative features.

(f) All lots in the 1st Avenue Overlay District shall be landscaped and all landscaping shall be maintained in a healthy, mature condition.

(g) Landscaping compatibility with adjacent development in the 1st Avenue Overlay District shall be provided. The use of deciduous trees, such as Linden and Cottonwood, along with a traditional sod or lawn seed mixture, is preferred for parcels along First Avenue. Crabapple and Chinese elm trees are prohibited. (Ord. 789 §18-374, 2006)

Sec. 12-16-140. Review procedure.

Whenever development is proposed (including change in use of an existing structure) in the 1st Avenue Overlay District, a site plan addressing the criteria in this Division shall be submitted to the City. The City Council, at a public meeting and upon review of the recommendation of the Planning and Zoning Commission, shall approve, approve with conditions or deny the site plan. (Ord. 789 §18-375, 2006)

*Division 3
Central Business Overlay District*

Sec. 12-16-210. Purpose.

The Central Business Overlay District is designed to establish standards for the Central Business District bordered by the railroad tracks on the northeast, Third Avenue on the south and Broadway on the west. (Ord. 789 §18-376)

Sec. 12-16-220. Applicability and standards.

(a) These standards shall apply only within the Central Business District. This Division establishes standards and criteria to be used in the review of development applications proposed within the Central Business District. In no instance shall this Code require renovation or changes to existing properties or structures when no development applications are required to be submitted. These regulations shall only be applicable when development is proposed by an applicant. Standards include:

(1) All development within the Central Business District shall be consistent with the intent of the master plan and the policies therein.

(2) All development within the Central Business District shall be designed in a manner such that, wherever possible, it protects the residential character of the neighborhood, including considerations of architecture, landscaping and property maintenance.

(3) Development of single vacant sites or redevelopment of existing structures within the Central Business District shall be compatible with adjacent properties.

(4) The design and placement of buildings and structures shall be consistent and compatible with other buildings and structures in the Central Business District.

(5) Architectural compatibility with adjacent development in the Central Business District shall be provided through the use of similar colors, building materials, design details, massing, scale or architectural style, including such structural features as porches, alcoves, bay windows, broken-roof pitch lines, wood trim, shutters and other exterior decorative features.

(6) All lots in the Central Business District shall be landscaped unless structures occupy the full lot. All landscaping shall be maintained in a healthy, mature condition. Landscaping compatibility with adjacent development in the Central Business District shall be provided.

(7) If rental dwelling units are present in a multi-story building also containing a business, the dwelling unit must be on the upper floor and the business on the bottom floor. If a rental dwelling unit is present in a single-story building also containing a business, the dwelling unit must be in the back and the business in the front facing the street.

(8) Lot setback and building height standards are set forth in Table 12-15 below.

(b) Review procedure. Whenever development is proposed (including change in use of an existing structure) in the Central Business District, a site plan addressing the criteria in this Section shall be submitted to the City. The City Council, at a public meeting and upon review of the recommendation of the Planning and Zoning Commission, shall approve, approve with conditions or deny the site plan.

Table 12-15
Central Business District Standards

Minimum lot area	3,750 square feet
Minimum lot width	25 feet
Minimum front setback	0 feet
Minimum side setback from a street right-of-way	10 feet
Minimum side setback from an interior lot line	5 feet
Minimum rear setback	20 feet
Maximum lot coverage	100%
Maximum building height	50 feet

(Ord. 789 §18-377, 2006; Ord. 811 §1, 2009)

ARTICLE 17

Supplementary Regulations

Sec. 12-17-10. Accessory uses and structures.

(a) Accessory uses shall comply with all requirements for the principal use, except where specifically modified by this Chapter, and shall also comply with the following limitations:

(1) A greenhouse or hothouse may be an accessory to a dwelling only if there are no sales from the premises.

(2) A guesthouse may be maintained in a residential district accessory to a dwelling, provided that the guesthouse is used for the occasional housing of guests of the occupants of the principal dwelling,

so long as the guesthouse is not used for commercial purposes and no charge is made for the use of the premises.

(3) The renting of rooms to one (1) person, not a member of the family residing in the same one-unit dwelling may be permitted as an accessory use, provided that the total number of unrelated persons, including roomers in any one (1) dwelling unit, shall not exceed three (3) persons.

(4) A swimming pool may be permitted in any district as an accessory use subject to the following additional requirements:

a. No public or private swimming pool may be located in any required front or side setback abutting a street.

b. Every swimming pool must be completely surrounded by a fence or wall not less than six (6) feet in height, with no openings large enough to permit children to pass through other than gates or doors that can be fastened to protect against entry. A building may be used as part of the required enclosure.

c. All gates or doors opening through such enclosures must be equipped with self-closing and self-latching devices for keeping the gate or door securely closed at all times when not in actual use.

d. All swimming pools shall comply with the State Building Code and the National Electrical Safety Code.

(b) Accessory structures shall comply with all requirements for the principal structure except where specifically modified by this Chapter, and shall also comply with the following limitations:

(1) No part of any accessory structure shall be located closer than ten (10) feet to any principal structure unless it is attached to, or forms a part of, the principal structure.

(2) Accessory structures shall not be located in the front setback of a principal structure.

(3) Accessory structures on corner lots in RL, RM, RH, Mfg-H and MSW Districts may be set back from the side street a distance of fifteen (15) feet if built behind the principal structure.

(c) Accessory structures and uses shall otherwise comply with the regulations applicable in the district in which they are located. (Ord. 789 §18-378, 2006)

Sec. 12-17-20. Temporary uses.

(a) The temporary uses of land shown on Table 12-16 are permitted in particular zoning districts, subject to specific regulations and time limits and to the other applicable regulations of the district in which the use is permitted. In addition, temporary uses may be subject to the provisions of Chapter 4, Article 7 of this Code.

(b) No temporary use permit shall be required for outside displays for sale of items from vending machines, newspaper sales racks and other machines.

(c) Temporary structures shall be removed not more than seven (7) calendar days after occupancy of the permanent building is permitted. Temporary stands, motor vehicles and trailers shall be removed on the date of termination of the permit unless a specific date is stated.

Table 12-16
Temporary Use Chart

<i>Temporary Use</i>	<i>Zones</i>	<i>Period</i>
Temporary office incidental and necessary for the sale of new construction	RU, RE, RL, RM, RH, Mfg-H, MSW	Permit valid for not more than 6 calendar months. May be renewed for 3 successive six-month periods at the same location.
Manufactured home single-wide used as temporary living quarters incidental and necessary for the construction and/or rehabilitation of a residence	RU, RE, RL, RM, RH, Mfg-H, MSW	Permit valid for not more than 6 calendar months and may be renewed for an additional 6 months, provided that the exterior walls and roof of the residence are completed.
Real estate office incidental to a new housing development	RU, RE, RL, RM, RH, Mfg-H, MSW	Not to exceed 1 year and subject to renewal under the discretion of the City Council.
Recreational vehicles or camping units	RU, RE, RL, RM, RH, Mfg-H, MSW, CH, CB, I	Shall not be occupied for more than 30 days in any 1 calendar year. Permit shall be located inside the vehicle and visible from the street.
Temporary tents for service of food or liquor, as extension of an existing licensed food service establishment	CH, CB, I	Permit valid for a period of not more than 6 months in any 1 calendar year. All temporary tents must conform to the setback requirements for the zoning district in which they are located.
Temporary sales lot and temporary office for the sale of Christmas trees at wholesale or retail	CH, CB, I	Not to exceed 60 days. Display of Christmas trees need not comply with the setback requirements of these regulations, provided that no tree shall be displayed within 30 feet of the intersection of the right-of-way line of any 2 streets.
Temporary sale of trees, shrubs, plants and garden supplies, which may be displayed outdoors	CH, CB, I	Not to exceed 6 months.
Sidewalk sale, carnival and/or bazaar	CH, CB, I	Permit valid for a period of not more than 3 days, as determined by the City Manager, and shall not be renewed more than 3 successive periods.
Animals for exhibition or public celebration	ALL	Not to exceed 5 days.
Large-lot grazing (on unplatted large lots of 10 acres or more)	RL, RU, RE	Permit valid for a period of not more than 6 months in any 1 calendar year. Application must be accompanied by a grazing plan, including information about the type and number of animals proposed for grazing, the property's stocking rate and other care provisions as required by City staff.
Mobile office structure	I	Not to exceed 6 months.
Auction	I	Not to exceed 6 months.
Temporary construction yard or building for construction materials and equipment	ALL	Permit valid for not more than 6 calendar months. May be renewed for 3 successive six-month periods at the same location.

Manufactured home single-wide for office use	I	Permit valid for not more than 6 calendar months. May be renewed for 3 successive six-month periods at the same location.
Concrete and asphalt batch plant	I	Permit valid for not more than 6 calendar months. May be renewed for 3 successive six-month periods at the same location.

(Ord. 789 §18-379, 2006; Ord. 805 §4, 2008; Ord. 813, 2009)

Sec. 12-17-30. Landscaping.

All new permitted and special review uses in all Districts are required to submit a landscaping plan as part of the application for a site permit and building permit. (Ord. 789 §18-380, 2006; Ord. 811 §1, 2009)

Sec. 12-17-40. Architectural and placement standards.

(a) The purpose of these standards is to require that homes be placed within neighborhoods in a manner that assures that the homes are compatible with adjacent properties and reflect the character of the neighborhoods in the City.

(1) Any person wishing to place a one-unit dwelling, two-unit dwelling or manufactured home Class A on a lot of record within the City shall provide to the City Manager the following on a form provided by the City or copies of original documents:

- a. Scaled building site plan for the lot showing proposed location of the single-family home on the lot, including all setbacks required in the zone district, all adjacent rights-of-ways, lot lines and lot dimensions.
- b. Location of required off-street parking spaces.
- c. All existing and proposed sidewalks, curb cuts, driveway, access and handicapped ramps.

(2) Regulations: All one-unit dwellings, two-unit dwellings and manufactured homes Class A shall:

- a. Be placed on a subdivided lot of record.
- b. Use at least eight (8) of the following design features:
 - 1. The front of the dwelling shall be parallel (within thirty [30] degrees) to the front lot line (see Figure 12-1).
 - 2. A roof with a pitch that is 4:12 or greater.
 - 3. A hip roof.
 - 4. Have masonry or other contrasting material that project from the wall plane on the building facade that is parallel (within thirty [30] degrees) to the front lot line.

5. An architecturally similar garage or carport.
6. One (1) or more dormers that are parallel (within thirty [30] degrees) to the front lot line (see Figure 12-2).
7. Three (3) or more gables (see Figure 12-3).
8. Building face or roof offsets (minimum twelve-inch offset) that are parallel (within thirty [30] degrees) to the front lot line (see Figure 12-4);
9. Two (2) or more windows, with a combined minimum of twenty (20) square feet of glazed area, that are parallel (within thirty [30] degrees) to the front lot line, at least one (1) of which has a minimum operable opening of twenty (20) inches wide and twenty-four (24) inches high.
10. Bay or bowed windows that are parallel (within [30] degrees) to the front lot line.
11. Window shutter on the front, side and rear windows.
12. Minimum ten-inch eaves (all house eaves).
13. One (1) or more of the following types of exterior siding:
 - a) Horizontal lap siding, including simulated horizontal lap siding;
 - b) Vertical siding, with a pattern repeat of less than twelve (12) inches;
 - c) Beveled siding;
 - d) Stucco; or
 - e) Brick.
14. A recessed front entry (minimum eighteen [18] inches) which is parallel (within [30] degrees) to the front lot line.
15. A covered porch entry (minimum five-foot depth) for the front entrance. When the front entrance is not parallel to the front lot line, the porch shall be visible from the street (see Figure 12-5).
16. Wood or composition trim, nominal four (4) inches for exterior siding.
17. More than one (1) exterior material or contrasting color (not including trim material).

Figure 12-1

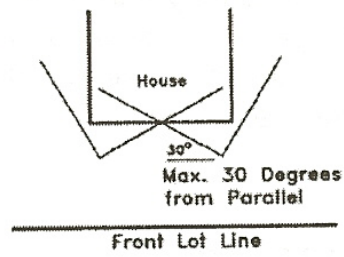


Figure 12-2

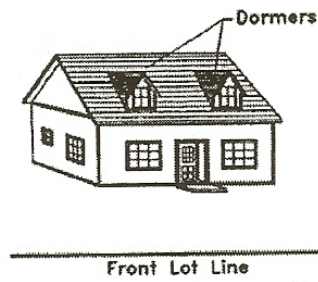


Figure 12-3

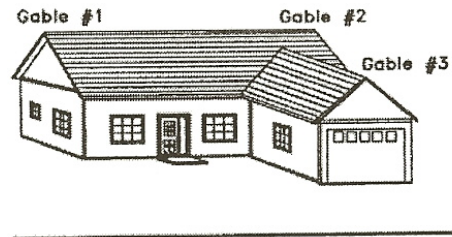


Figure 12-4

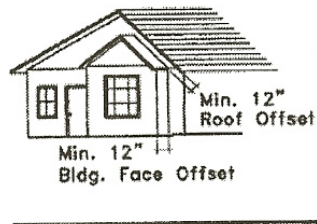
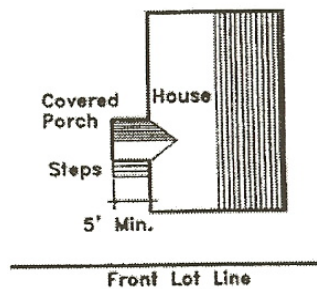


Figure 12-5



(3) Restrictions: All one-unit dwellings, two-unit dwelling and manufactured homes Class A shall:

a. Obtain site permits required and issued by the City.

b. Obtain building permits required by the City.

c. Have a paved (asphalt, gravel or concrete) driveway, off-street parking spaces, as required, and sidewalk from either the public sidewalk or driveway to the front entry.

d. Be placed on a permanent poured-in-place concrete perimeter foundation with no more than twelve (12) inches of concrete exposed above the grade on the street face, which meets all applicable codes as determined from plans and specifications submitted to obtain a building and site siting permit;

(b) A certificate of occupancy shall not be issued by the City Manager if it is found that less than eight (8) of the design features are used in the construction of a new one-unit dwelling, two-unit dwelling or manufactured home. (Ord. 789 §18-381, 2006)

Sec. 12-17-50. Building height exceptions.

The following types of structures or structural parts are not subject to the building height limitations of this Chapter: chimneys, storage tanks, water towers, church spires, belfries, domes, public monuments, fire and hose towers, observation towers, transmission towers, utility poles, flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, grain elevators, ranch and farm accessory uses, silos, outdoor movie screens and other similar projections. (Ord. 789 §18-384, 2006)

Sec. 12-17-60. Projections from buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features may not be constructed within three (3) feet of the property line or project more than three (3) feet into required open space as established by coverage standards. (Ord. 789 §18-385, 2006)

Sec. 12-17-70. Vision clearance.

(a) The vision clearance area shall contain no plantings, walls, fences, structures or temporary or permanent obstructions between two and one-half (2½) feet and eight (8) feet in height, except for trees or signs. The height shall be measured from the top of the curb or existing grade.

(b) Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area:

(1) At street intersections in the RU, RE, RL, RM, RH, Mfg-H and MSW Districts, the minimum distance shall be thirty (30) feet. At alley intersections in a residential district, the minimum distance shall be ten (10) feet.

(2) At street intersections in the CH and I Districts, the minimum distance shall be fifteen (15) feet. When the angle of intersection between streets is less than thirty (30) degrees, the distance shall be twenty-five (25) feet. At alley intersections, the minimum distance shall be ten (10) feet. (Ord. 789 §18-386, 2006)

Sec. 12-17-80. Screening.

(a) All exterior business and industrial activity areas, including but not limited to parking areas, service areas and outdoor storage areas, shall be screened by means of plant materials, earth mounding, architectural screens or siting so as to provide visual and aural separation between these elements and adjacent residential property, whether existing or proposed.

(b) Salvage junkyards shall be screened with no less than an eight-foot-high opaque solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.

(c) All extractive industries shall be screened by means of plant materials, earth mounding or solid fencing no less than eight (8) feet in height to provide visual and aural separation between such use and adjacent areas.

(d) The boundary of the manufactured home single-wide park shall be landscaped including hedges, evergreens, shrubbery or a six-foot screening wall which will serve as a buffer. Such landscaping, fences or walls, and the setback areas adjacent thereto, shall be properly maintained by the park owner. (Ord. 789 §18-387, 2006)

Sec. 12-17-90. Animals.

(a) The following Table 12-17 identifies limitations on the number and type of animals permitted in each zoning district. The animal inventory of pet shops is exempt from these limitations. Said inventory numbers shall be governed by regulations pertaining to retail and wholesale pet animal dealerships (pet shops) set by the Colorado Pet Animal Care Facilities Program.

**Table 12-17
Animal Regulations**

DISTRICT	ANIMALS					
	<i>Cats, dogs, potbellied (miniature) pigs</i>	<i>Horses, cows, llamas, mules, buffalo, ostrich, emus, goats, sheep, pigs, miniature horses</i>	<i>Chickens, ducks, turkeys, racing or domestic pigeons, quail, pheasant and other typically domesticated fowl</i>	<i>Rabbits and chinchillas</i>	<i>Nondomestic exotic or native animals, birds, reptiles (except any venomous reptiles or constricting snakes greater than 6 feet in length)</i>	<i>Beekeeping</i>
RU	4: No limit on kittens and puppies up to 12 months old	No limit except on parcels of land less than 10 acres; then limit is 1 per acre	No limit	No limit	4: Must be kept indoors	No limit
RE	4: No limit on kittens and puppies up to 12 months old	Special Review permit required	Special Review permit required	4	4: Must be kept indoors	Special Review permit required
RL, RM, RH, MSW, Mfg-H	4: No limit on kittens and puppies up to 12 months old	Not allowed	Not allowed	4	4: Must be kept indoors	Not allowed
CH, CB	4: No limit on kittens and puppies up to 12 months old	Not allowed	Not allowed	Not allowed	4: Must be kept indoors	Not allowed
I	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed

(b) Animal-based businesses.

1. It is unlawful for any person to maintain or operate any pet shop, animal day care center or kennel within the City without first having obtained a license. The annual license fee for such businesses shall be set by resolution of the City Council. License applications must be accompanied by a copy of the applicant's current state license issued by the Colorado Department of Agriculture Animal Industry Division. Applications must also be accompanied by a plan for animal waste management. The City may revoke or suspend any animal-based business license issued under this Article when the facility for which such license has been issued is found to be in violation of this Chapter or of any other applicable law. This Article shall not apply to and shall not be construed to

require an animal-based business license for a veterinarian to board animals receiving veterinary medical care or to board animals which are under observation.

2. Pet shops, animal day care centers and kennels shall be confined in a building that is totally enclosed, and all animals shall be confined exclusively to that building. Such businesses may not have outside runs or pens, and none of the animals owned by such businesses shall be harbored or housed outside of the building at any time for any reason.

3. The sale or offering for sale of sick, injured, weak or unweaned animals is prohibited.

4. All pet shops, animal day care centers and kennels shall be maintained according to the regulations enacted for such businesses by the Colorado Pet Animal Care Facilities Program. Copies of such regulations are available for review at the Community Development Department or from the state Program, 700 Kipling Street, Suite 4000, Lakewood, CO 80215. Regulations include standards for physical facilities, sanitation, ventilation, lighting, heating, cooling, humidity, spatial and enclosure requirements, nutrition, humane care, medical treatment, methods of operation and recordkeeping.

(c) Additional regulations pertaining to control of animals in the City are specified in Chapter 6 of this Code. (Ord. 789 §18-388, 2006; Ord. 805 §3, 2008)

Sec. 12-17-100. Manufactured homes.

Manufactured homes may be locatable in the RU, Mfg-H and MSW Districts as a permitted use. See Table 12-3 Use Chart at Section 12-5-120 of this Chapter for requirements. In addition, manufactured homes Class A may be approved as a special review use in the RL and RM Districts provided that the City Manager certifies, prior to the location of a manufactured home, that the applicant has complied with "acceptable similarity standards" and that the housing is internally compatible and consistent with the surrounding housing development as follows:

(1) Each housing unit shall be situated on a lot so that the placement is consistent and compatible with the placement of other residential units in the surrounding neighborhood and in accordance with the requirements and provisions of this Chapter.

(2) In development of single vacant sites within a developed area, the unit shall be compatible with structures on adjacent properties. Development of manufactured housing shall comply with the site plan, development standards or other design criteria as required for the underlying zone required by City subdivision regulations and zoning regulations.

(3) Units shall not be less than twenty-four (24) feet in width or thirty-six (36) feet in length.

(4) The main roof shall be pitched rather than flat.

(5) Each unit shall be faced in wood siding, brick, a combination thereof or other cosmetically equivalent exterior siding.

(6) The engineered permanent foundation shall be the same as required for "site built"/ "stick built" housing within the City, as required by the Building Code.

(7) Landscaping of the lots shall be consistent with the provisions of this Chapter.

(8) All units shall include a garage unless such a requirement is inconsistent with the surrounding neighborhood.

(9) Architectural compatibility with adjacent development shall be provided through the use of similar colors, building materials, design details, massing, scale or architectural style, including such structural features as porches, alcoves, bay windows, broken-roof pitch lines, wood trim, shutters and other exterior decorative features. (Ord. 789 §18-389, 2006)

Sec. 12-17-110. Storage and parking of commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, buses, trailers and similar units.

Commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, boats, buses, trailers and other similar units shall not be parked or stored on any lot or upon any public right-of-way in any zoning district contrary to this Section, except in accordance with the following provisions:

(1) Not more than one (1) commercial vehicle (not to exceed one and one-half [1½] tons rated capacity) on a residential lot, or combination of lots under single ownership, shall be permitted, and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.

(2) Buses, trailers and commercial vehicles not to exceed one and one-half (1½) tons rated capacity, camping units, recreational equipment (which includes, but is not limited to, ATVs and snowmobiles), boats and similar units may be parked or stored on a residential lot, or combination of lots under single ownership, subject to the following conditions:

a. If such units or vehicles are parked in any required front setback, they shall be parked on a constructed driveway. A *constructed driveway* is an off-street parking area built of asphalt, concrete, rock or gravel that occupies no more than forty percent (40%) of the front setback area. Driveways built of rock or gravel shall be not less than three (3) inches deep and have an outer border to contain the material.

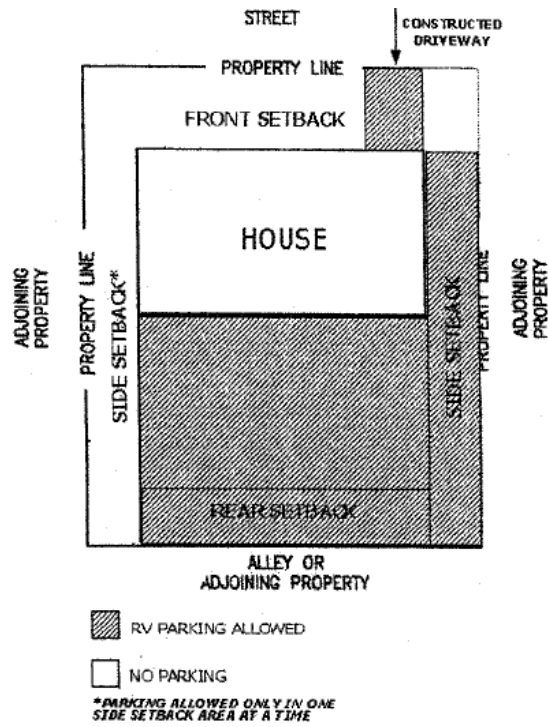
b. If such units or vehicles are parked in any required side setback, they shall be confined to one (1) side setback only.

c. No such units and vehicles shall be parked or stored upon any public right-of-way.

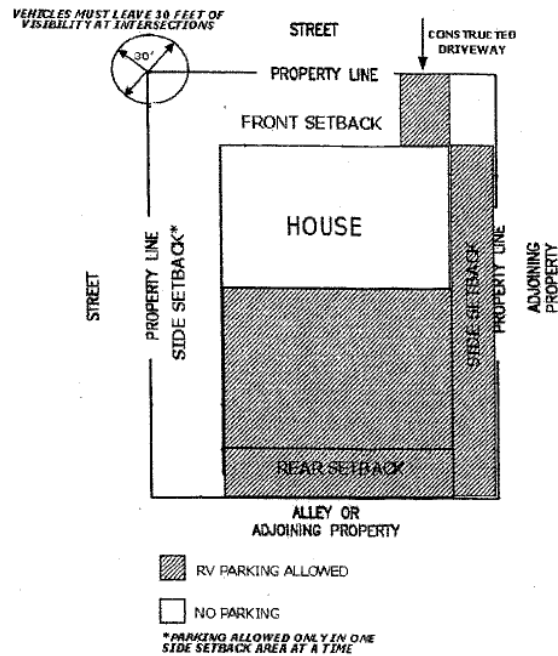
d. No such units and vehicles shall be parked in a manner as to obstruct motorists' view of street intersections or pose any other driver safety hazards, in accordance with the provisions of Section 12-17-70 and the definition of vision clearance area in Section 12-1-10 of this Chapter.

e. A camping unit or recreational vehicle shall not be occupied for more than thirty (30) days in any one (1) year while it is parked or stored in any area within the City, except in a mobile home park or campground authorized under Article 5 of this Chapter.

RV PARKING AREAS TYPICAL LOT DIAGRAM



RV PARKING AREAS CORNER LOT DIAGRAM



(3) Railcars may not be stored in any residential, industrial or commercial zone of the City when not connected to a rail line.

(4) A manufactured home single-wide shall not be stored within the City limits except in a licensed mobile home park.

(5) Commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, boats, buses, trailers and similar units shall be considered stored if not moved for seven (7) consecutive days.

(6) Parking and operation restrictions of commercial and other specified vehicles upon public rights-of-way:

a. *Commercial vehicle*, for the purpose of this Paragraph, is defined as any tandem or single-axle vehicle having a gross vehicle weight rating (GVWR) of thirty-six thousand (36,000) pounds or more;

b. Commercial vehicles, railcars and similar units, designed primarily for conveying products and services, shall only be allowed in commercial and industrial zone districts of the City, upon public rights-of-way. However commercial vehicles and similar units shall be allowed to enter residential areas for the purpose of delivery or retrieval of products and services to specific residences in said areas, as well as commercial vehicles necessarily utilizing the City streets for the purpose of construction or contracting in residentially zoned districts.

c. Parking restrictions in residential, commercial and industrial zone districts: No person shall park any commercial vehicle or similar unit, designed primarily for conveying products and

services, for more than one (1) hour upon any public right-of-way or place ordinarily used for vehicular parking which is zoned residential. No person shall park any such commercial vehicle or railcar for more than forty-eight (48) hours in any area which is zoned commercial or industrial. Movement of said vehicle from one (1) location to another within the City shall be no defense to this Section.

This provision shall not apply to any commercial vehicle, railcar or similar unit which is leased or owned by any permittee granted a permit for construction or repair work or by a public utility engaged in work for which no such permit is required or a vehicle leased or owned by any contractor hired by such permittee or public utility, provided that the commercial vehicle or similar unit is used in such construction or repair site or within one hundred fifty (150) feet thereof as measured from the limits of the work area as specified in the permit and only during the period of actual construction; or to any such trailer, semi-trailer, tractor trailer or commercial vehicle or railcar which is leased or owned by a City department or contractor or vendor hired by such City department for construction or repair work or by a subcontractor thereof.

(7) Commercial vehicles carrying flammable gases or liquids. No commercial vehicle used for transportation of flammable gases or liquids shall be parked in the City in excess of one (1) hour. No driver, operator or attendant shall leave a commercial vehicle unattended during the loading or unloading of flammable gases or liquids. No commercial vehicle used for transportation of flammable gases or liquids shall be parked nearer than twenty-five (25) feet to any building except when loading or unloading such flammable gases or liquids.

(8) Towing authorized. The Police Department is authorized to remove and tow away by a commercial towing service any commercial vehicles, camping units, recreational equipment, buses, trailers and similar units parked in violation of this Section. Such items so towed for illegal parking shall be stored in a safe place and shall be returned to the owner or operator of such vehicle upon payment of the towing and storage fees.

(9) Every person convicted of a violation of this Section may be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 796 §B, 2008; Ord. 811 §1, 2009)

Sec. 12-17-120. Home occupations.

The purposes of this Section are to encourage major business activities to be conducted in appropriate commercial zones, to allow for home occupations that are compatible with the neighborhoods in which they are located as an accessory use, to safeguard peace, quiet and domestic tranquility within certain residential neighborhoods within the City, to protect residents from excessive noise, excessive traffic, nuisance, fire hazard and other possible adverse effects of commercial uses being conducted in residential areas, to provide a means to terminate home occupations if disruption of a residential neighborhood occurs and to preserve the residential character of residentially zoned areas of the City while allowing limited home occupations.

(1) Home occupation license. A home occupation shall be conducted within the City only in residentially zoned areas, and in compliance with the following provisions:

a. No home occupation may be conducted by any person in the City without having first procured a valid and current license to conduct the same.

b. A license to conduct a home occupation shall be issued by the City Clerk upon recommendation for approval from the City Manager and based upon the following criteria, and the holder of any license shall be bound by said criteria:

1. The home occupation shall be an accessory use by a bona fide resident of the dwelling that is clearly secondary and incidental to the family use of the dwelling unit. There shall be no physical evidence of the home occupation other than allowed signage.

2. The home occupation shall not physically change or alter the external appearance of the principal or accessory structures. Interior alterations for the purpose of accommodating the home occupation are prohibited if such alteration eliminates either the kitchen, dining area, bathrooms, living room and/or all of the bedrooms.

3. The home occupation shall not involve the use of any yard space for storage or display of supplies, inventory or equipment when such use is in conjunction with the sale or production of goods or services.

4. There shall be complete conformity with fire, building, plumbing, electrical and all other municipal, county, state and federal codes.

5. The home occupation shall not necessitate a demand for municipal, community or utility services that are substantially in excess of those usually and customarily provided for residential uses.

6. The home occupation shall not directly or indirectly interfere with or disrupt the peace, quiet and domestic tranquility of the neighborhood by producing or creating odor, smoke, dust, heat, fumes, light, glare, construction, sounds, noises, vibrations or other nuisances, including interferences with radio and television reception or other adverse effects associated with its use as a business that may be discernable beyond the premises.

7. No process may be used in home occupations which is hazardous to the public, health, safety, morals or welfare.

8. Visitors, customers and vehicular traffic shall not exceed that normally and reasonably occurring in the neighborhood where the home occupation is conducted so that neighbors will not be significantly impacted by its existence.

9. The home occupation may include the sale of commodities; however, direct sale from display shelves is not permitted at the premises.

10. Vehicles or equipment may not be used primarily for the purpose of advertising the home occupation at the site of the home occupation. Any vehicles or equipment displaying such advertising shall not be visible from the public right-of-way.

11. The receipt or delivery of merchandise, goods or supplies for use in the home occupation shall be limited to vehicles with a gross vehicle weight rating of thirty-six thousand (36,000) pounds or less.

12. No visitors in conjunction with the home occupation (clients, patrons, students, pupils, etc.) shall be permitted between the hours of 10:00 p.m. and 6:00 a.m.

13. The home occupation shall be carried on wholly within the principal and/or accessory building.

14. The home occupation shall not occupy more than twenty-five percent (25%) of the gross floor area of the home and, if located in an accessory building, not more than five percent (5%) of the total lot area.

15. Home occupation signs shall be decorative, the design of which shall be approved in advance of placement by the City Manager, shall not exceed six (6) square feet per face, and may be placed anywhere on the premises below the roof line of the residence or building to which it is attached. The design may not project onto a public right-of-way and may not be illuminated, except for indirect lighting, from between dusk until 10:00 p.m.

16. Home occupation licenses are not transferable to any person other than the original applicant, or to locations other than that indicated in the original application.

17. Although more than one (1) home occupation may be allowed at any residential dwelling, the provisions of this Section shall apply to the total area allowed for all such home occupations.

18. Each home occupation shall require a current City sales tax license and state sales tax license.

(2) It shall be unlawful for any person to engage in or conduct a home occupation within the City without first having procured a home occupation license, a City sales tax license and a state sales tax license. Such licenses shall be renewed yearly and shall be maintained in good standing in compliance with the provisions of this Section, as well as all other provisions of this Code and the State statutes.

(3) The City Council may, by resolution, from time to time adopt application and licensing fees for home occupations, and such fee schedules are incorporated by reference into the provisions of this Section.

(4) Any violations of this Section shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 789 §18-391, 2006; Ord. 811 §1, 2009)

Sec. 12-17-130. Drive-in facilities.

(a) Any use permitted in a zoning district which intends to conduct a portion or all of its business with persons desiring to remain in their automobiles or which allows products to be consumed on the premises outside the principal building, and which is not subject to special review use provisions of Sections 12-5-40 through 12-5-120 of this Chapter or is not part of a planned unit development under Article 18 of this Chapter, must submit a site plan to be reviewed and approved by the Planning and Zoning Commission.

(b) In reviewing and approving the site plan for such a use, the Planning and Zoning Commission must be satisfied that the traffic circulation on and adjacent to the site conforms to the following criteria:

(1) Traffic circulation shall be arranged so that internal pedestrian and vehicular movements are compatible and traffic hazards are minimized.

(2) Traffic circulation, ingress and egress shall be arranged so as to minimize hazardous or adverse effects on adjacent sites and streets. (Ord. 789 §18-392, 2006)

Sec. 12-17-140. Extractive industries and salvage yards.

Extractive industries and salvage yards shall be located a minimum of six hundred sixty (660) feet from any residential district or school. (Ord. 789 §18-393, 2006; Ord. 805 §3, 2008)

Sec. 12-17-150. Commercial Mobile Radio Systems (CMRS).

(a) All proposed CMRS facilities shall be reviewed pursuant to the following procedures:

(1) Building- or structure-mounted CMRS facilities shall be reviewed by the City Manager for compliance with the requirements of this Chapter.

(2) Roof-mounted and freestanding CMRS facilities must receive a special review use permit.

(b) Multiple providers. No more than one (1) roof-mounted or freestanding CMRS facility may be constructed or maintained upon a property in single ownership; provided, however, that additional CMRS facilities may be approved at the same location by special review use, provided that all other requirements of this Chapter are met.

(c) Building- or structure-mounted CMRS facilities shall be subject to the following requirements:

(1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.

(2) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet.

(3) Building- or structure-mounted whip antennas shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.

(d) Roof-mounted CMRS facilities shall be screened or camouflaged as appropriate from view from adjacent property lines. Such facilities are additionally subject to the following requirements:

(1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.

(2) Roof-mounted CMRS whip antennas shall extend no more than ten (10) feet above the parapet of any flat roof or ridge of a sloped roof to which they are attached.

- (3) Roof-mounted CMRS panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted.
- (4) Roof-mounted CMRS accessory structures shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
- (e) Freestanding CMRS facilities shall be visually screened from adjacent residential development and public rights-of-way as follows:
- (1) All accessory buildings and equipment cabinets shall be totally screened from view from adjacent property lines.
- (2) Screening, landscaping and/or exterior building finishes and colors shall be compatible with the existing character of the site and adjacent properties and shall be determined as part of the special review use permit review process.
- (f) No CMRS facility shall exceed the height limit applicable to the underlying zone district in which such facility is located.
- (g) The construction and use of a CMRS facility shall not cause interference to other adjacent CMRS facilities. The City shall be held harmless if interference occurs.
- (h) CMRS facilities which are abandoned by disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the CMRS facility owner. Should the owner fail to remove the facilities, the City may do so at its option and the costs thereof shall be a charge against the owner.
- (i) Standards for approval:
- (1) Existing or approved towers cannot accommodate the telecommunications equipment planned for the proposed tower.
- (2) The tower shall not constitute a hazard to aircraft.
- (3) The tower shall be placed on the property to contain on site all ice-fall or debris from tower failure.
- (4) The tower shall provide for shared capacity if technically practicable.
- (5) The tower shall have the least practicable adverse visual impact on the environment.
- (6) The tower shall not emit radiation that will adversely affect human health.
- (7) The tower shall be the minimum height needed to accommodate the antenna.
- (8) The tower shall comply with all applicable federal and state regulations.
- (9) The design of the tower shall ensure structural integrity. The proposed tower shall have adequate measures to discourage unauthorized climbing and to ensure the security thereof.

(10) All reasonably possible sites for the tower have been considered, and the proposed site is the most appropriate, available site from a land use perspective. (Ord. 789 §18-395, 2006)

ARTICLE 18

Planned Unit Development

Sec. 12-18-10. Purpose.

In accordance with Section 31-23-101, et seq., C.R.S., and Section 24-67-101, et seq., C.R.S., and in order that the public health, safety, morals, integrity and general welfare may be furthered in an era of increasing urbanization and growing demand for site development of all types and design, this Article is designed to implement the following purposes:

(1) Provide for necessary commercial, recreational and educational facilities conveniently located to housing of varying type and density.

(2) Provide for well-located, clean and safe commercial and industrial sites that integrate well-planned parking and access, pedestrian walkways, landscaped open areas and harmonious relationships between structures.

(3) Provide an alternative to the application of traditional zoning standards as a means of encouraging innovative or alternative forms of site development.

(4) Encourage innovations in residential, commercial and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to the buildings.

(5) Encourage a more efficient use of land and of public services, and reflect changes in the technology of land development so that resulting economies may endure to the benefit of those who need homes.

(6) Lessen the burden of traffic on streets and highways through encouraging alternative forms of transportation and transit.

(7) Encourage the building of new neighborhoods incorporating the best features of modern design as well as traditional neighborhood design (TND) and transit-oriented development (TOO) principles.

(8) Conserve the economic and environmental value of the land.

(9) Provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging the preservation of the site's natural characteristics.

(10) Encourage integrated planning in order to achieve the purposes designated in this Section. (Ord. 789 §18-396, 2006)

Sec. 12-18-20. Scope.

- (a) Application for a planned unit development may be made for land located in any zoning district.
- (b) The district standards as stated in Article 5 of this Chapter shall not apply to planned unit developments. In specific cases, the off-street parking requirements stated in Article 19 of this Chapter may be reduced. These requirements shall be controlled by the criteria and standards of this Article and as shown on the approved planned development plan.
- (c) A zoning change is not required; however, the area included in each approved planned unit development shall be indicated on the official zoning map.
- (d) It is the intent of this Article that any property may be developed as a planned unit development (PUD). Within a PUD, any use or combination of uses and densities will be permitted subject to: 1) the standards described in Chapter 13, Article 4, Division 3 of this Code; and 2) the approval of the City Council. (Ord. 789 §18-397, 2006)

Sec. 12-18-30. Standards.

The following provisions apply to all planned unit developments:

- (1) The number of off-street parking spaces in each PUD must not be less than the requirements as stated in Article 19 of this Chapter, except that the City Council may increase or decrease the required number of off-street parking spaces in consideration of the following factors:
 - a. Probable number of cars owned by occupants of dwellings in the PUD.
 - b. Parking needs of any commercial or industrial uses.
 - c. Varying time periods of use and whatever joint use of common parking areas is proposed.

Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the City Council shall attain assurance that the nature of the occupancy will not change.

- (2) The minimum lot area size, setback and lot coverage requirements, as stated in Article 5 of this Chapter, applies to the PUD, except that the City Council may reduce the requirements up to twenty-five percent (25%) if common and/or dedicated open space exceeds the public sites and dedication requirements of Chapter 13 of this Code or if exceptional amenities and/or other improvements warrant an increase in density and the reduction would not be detrimental to the character of the PUD or surrounding area.

- (3) The maximum requirement for building height applies to the PUD, except that the City Council may allow an increase in building height if common and/or dedicated open space exceeds the public sites and dedication requirements of Chapter 13 of this Code or if exceptional amenities and/or other improvements warrant an increase in building height and the increase would not be detrimental to the character of the PUD or surrounding area.

(4) The City Council must be satisfied that the final development plan has met with each of the following criteria or can demonstrate that one (1) or more of them is not applicable and that a practicable solution consistent with public interest has been achieved for each of these elements:

- a. An appropriate relationship to the surrounding area.
- b. Circulation in terms of the internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience, access and noise and exhaust control. Proper circulation in parking areas in terms of safety, convenience, separation and screening.
- c. Consideration for low- and moderate-income housing.
- d. Functional open space in terms of optimum preservation of natural features including trees and drainage areas, recreation, views, density relief and convenience of function.
- e. Variety in terms of housing types, densities, facilities and open space.
- f. Privacy in terms of needs of individuals, families and neighbors.
- g. Pedestrian and bicycle traffic in terms of safety, separation, convenience, access points of destination and attractiveness.
- h. Building types in terms of appropriateness to density, site relationship and bulk.
- i. Building design in terms of orientation, spacing, materials, color and texture, storage, signs and lighting.
- j. Landscaping of total site in terms of purpose such as screening, ornamental types used and materials used, if any, maintenance, suitability and effect on the neighborhood.

(5) It is the intent of this Chapter that subdivision review under Chapter 13 of this Code is carried out simultaneously with the review of a PUD under this Article.

(6) The requirements of both this Article and those of Chapter 13 of this Code apply to all PUDs. All actions of the City Council pertaining to PUDs shall be based upon a recommendation by the Planning and Zoning Commission. (Ord. 789 §18-398, 2006)

Sec. 12-18-40. Preapplication conference.

A preapplication conference shall be held with the City Manager in order for the applicant to become acquainted with the PUD procedures and related City requirements and to obtain copies of any guidelines or ordinance interpretations. (Ord. 789 §18-399, 2006)

Sec. 12-18-50. Preliminary development plan; application.

(a) An applicant shall make application for the approval of the PUD to the Planning and Zoning Commission. The applicant shall accompany his or her application with a preliminary development plan as specified in this Article.

(b) The preliminary development plan must include both a preliminary development plan map and a written statement.

(c) The preliminary development plan map must contain the following information:

(1) The existing topographic character of the land at a contour interval of two (2) feet. Spot elevations may be required if land is too flat for contours.

(2) Proposed land uses and their respective acreage.

(3) The type and character of proposed development and, if applicable, the proposed number of dwelling units per gross residential acre.

(4) The location of proposed streets.

(5) The location and size of proposed public and semipublic uses, both dedicated and other.

(6) The one hundred-year floodplain and floodway, if applicable.

(7) The location of existing utility facilities and recorded easements.

(d) The written statement to accompany the preliminary development plan map must contain the following information:

(1) An explanation of the character of the PUD and the manner in which it has been planned to take advantage of the PUD regulations.

(2) A statement of the present ownership and legal description of all the land included within the PUD.

(3) A general indication of the expected schedule and phasing of development.

(e) The applicant may submit any other information or exhibits he or she deems pertinent in evaluation of the proposed PUD. The Planning and Zoning Commission may request additional information which it deems necessary for adequate review and evaluation.

(f) Accompanying the application will be a nonrefundable filing fee in the amount designated by the fee schedule. The fee satisfies the requirements of Chapter 13 of this Code. (Ord. 789 §18-400, 2006)

Sec. 12-18-60. Preliminary development plan; review and approval procedure.

(a) The Planning and Zoning Commission shall recommend either approval, approval with modifications and conditions or disapproval of the application to the City Council within sixty (60) days of receipt of the application, unless a longer time is necessary for consideration of the application for reasons specifically stated by the Planning and Zoning Commission.

(b) The recommendation of the Planning and Zoning Commission shall be transmitted to the City Council and to the applicant.

(c) The City Council shall hold a public hearing on all PUD applications after receiving the written report of recommendations from the Planning and Zoning Commission.

(d) Public notice shall be given in accordance with Section 12-3-320 of this Chapter.

(e) The City Council shall approve, approve with modifications or disapprove the application within thirty (30) days of the public hearing. The decision of the City Council shall be transmitted to the Planning and Zoning Commission and to the applicant.

(f) Approval of the preliminary development plan shall be valid for one (1) year.

(g) A one-year extension of approval time may be applied for in writing to the Planning and Zoning Commission.

(h) All or any portion of an approved preliminary development plan may be submitted for final development plan purposes.

(i) In the case of partial submission, the approval of the remaining portion of the preliminary development plan shall automatically gain an extension of one (1) year before another phase of the plan must be submitted in final form. (Ord. 789 §18-401, 2006; Ord. 811 §1, 2009)

Sec. 12-18-70. Submission of final development plan.

(a) The final development plan, which may reflect the entire preliminary development plan or any logical part thereof, must be submitted within one (1) year following approval of the preliminary development plan unless written request is made for an extension of one (1) year and approved by the Planning and Zoning Commission.

(b) Copies of any special agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continued protection of the PUD and any of its common park areas must accompany the final development plan.

(c) The applicant may submit any other information or exhibits he or she deems pertinent in evaluating his or her proposed PUD. The Planning and Zoning Commission may request additional information it deems necessary for adequate review and evaluation. (Ord. 789 §18-402, 2006)

Sec. 12-18-80. Specifications.

(a) The final development plan shall be prepared at a scale of not less than one (1) inch equals one hundred (100) feet, and shall be submitted with sufficient detail to evaluate the building design and other features of the PUD.

(b) In addition, the final development plan will conform in all respects to the contents, supplementary information and procedure requirements of Chapter 13, Article 4, Division 3 and Chapter 13, Article 5 of this Code. In such cases where this Chapter conflicts with Chapter 13 of this Code, the provisions of this Chapter shall apply.

(c) The final development plan must contain at a minimum, insofar as applicable, the following information in graphic or written form:

(1) The existing topographic character of the land at a contour interval of two (2) feet. Spot elevations may be required if land is too flat for contours.

(2) The proposed land uses and their respective acreage.

(3) The location and size of all proposed buildings, structures, utilities and other improvements.

(4) The maximum height of all buildings may be stipulated as a general note; however, where significant views may be obscured by building heights, the maximum height of individual structures shall be indicated.

(5) The density and type of dwellings, if applicable.

(6) The location, number of lanes, median width, curb cuts, access control and proposed turning movement restrictions or arterial streets.

(7) The location of collector and local streets.

(8) The off-street parking and loading areas.

(9) The location, height and size of proposed signs, lighting and advertising devices.

(10) The areas to be dedicated to the City or reserved as common park areas.

(11) The one hundred-year floodplain and floodway, if applicable.

(12) A general landscape plan at the time of submission, to be followed by a detailed landscaping plan once the plan has been approved showing the spacing, sizes and specific types of landscaping material.

(13) The location of existing utility facilities and recorded easements. (Ord. 789 §18-403, 2006)

Sec. 12-18-90. Review and recording.

(a) The Planning and Zoning Commission shall review the final development plan to determine conformity with the preliminary development plan as approved by the City Council. If the final plan is in conformity, it shall be certified by the Planning and Zoning Commission and forwarded on to the City Council for final approval and certification.

(b) The final development plan shall be recorded following approval and certification as if it were a final subdivision plat. (Ord. 789 §18-404, 2006)

Sec. 12-18-100. Building permit and certificate of occupancy issuance.

(a) The appropriate official shall issue site permits and building permits for buildings and structures in the area covered by an approved final development plan if the time limit established by the tentative development schedule has not passed, the plan has been recorded and the buildings and structures are in conformity with the approved final development plan and with all other applicable ordinances and regulations.

(b) The appropriate official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final development plan if the completed building or structure conforms to the requirements of the approved final development plan and all other applicable ordinances and regulations.

(c) If the time limit established by the development schedule has passed, no building permits or certificates of occupancy shall be issued until the Planning and Zoning Commission has reviewed the development plan and a new development schedule has been established. (Ord. 789 §18-405, 2006)

Sec. 12-18-110. Final development plan; development schedule, compliance required, extension.

(a) From time to time, the Planning and Zoning Commission shall compare the actual development accomplished in the various PUDs with the approved development schedules.

(b) If the owner of property in the PUDs has failed to meet the approved development schedule, the City may revoke the final development plan.

(c) For good cause shown by the property owner, the Planning and Zoning Commission may extend the limits of the development schedule. (Ord. 789 §18-406, 2006)

Sec. 12-18-120. Amendment procedure.

No changes may be made to the approved final development plan during the construction of the PUD, except upon application to the appropriate agency under the procedures provided below:

(1) Minor changes in the location, siting and height of buildings and structures and other minor changes may be authorized by the Planning and Zoning Commission, if required by engineering or other circumstances not foreseen at the time the final plan was approved.

(2) No change authorized by this Section may increase the overall outside dimensions of any building or structure by more than ten percent (10%).

(3) All changes in use, density or in the outline development plan must be approved by the City Council under the procedures authorized by this Chapter for the amendment of the zoning map.

(4) All other changes in the arrangement of lots, blocks and buildings, any changes in the provision of common open spaces and all other changes in the approved final development plan must be approved by the City Council under the procedures authorized for final plan approval, unless they are shown to be required by changes in the development policy of the community, or by conditions that were unforeseen at the time of approval of the final development plan.

(5) Any changes which are approved for the final development plan must be recorded as amendments to the recorded copy of the final development plan. (Ord. 789 §18-407, 2006)

Sec. 12-18-130. Completion of PUD.

After the certificate of completion has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the PUD will be governed by the approved final development plan rather than by any other provisions of this Chapter. (Ord. 789 §18-408, 2006)

Sec. 12-18-140. Changes restricted.

After completion of the PUD, no changes may be made to the approved final development plan, except upon application to the appropriate agency under the procedures provided below:

(1) Any extension, alteration or modification of existing buildings or structures may be authorized by the Planning and Zoning Commission if they are consistent with the purposes and intent of the final plan.

(2) No change authorized by this Section may increase the dimensions of any building or structure by more than ten percent (10%).

(3) Any uses not authorized by the approved final development plan, but permitted in the PUD as a use by right under the provisions of this Chapter or as a use permitted by a special review in the zone in which the PUD is located, may be added to the final development plan under the special review use procedures.

(4) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan, unless an amendment to the final development plan is approved in accordance with this Article.

(5) Changes in the use of common open space may be authorized only by an amendment to the final development plan in accordance with this Article.

(6) All other changes in the final development plan must be made by the City Council under the procedures authorized by this Chapter for the amendment of the zoning map.

(7) No changes may be made in the final development plan unless they are required for the continued successful functioning of the PUD or unless they are required by changes in conditions that have occurred since the final development plan was approved or by changes in the development policy of the City.

(8) No changes in the final development plan which are approved under this Article are to be considered as a waiver of the covenants limiting the use of land, buildings, structures and improvements within the area of the PUD, and all rights to enforce these covenants against any changes permitted in this Section are expressly reserved. (Ord. 789 §18-409, 2006)

ARTICLE 19

Off-Street Parking and Loading

Sec. 12-19-10. Generally.

(a) The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner.

(b) No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of

property for which the site permit and building permit are issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Chapter.

(c) Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Chapter to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.

(d) Uses in the area designated as the CB District shall be exempt from the requirements of Sections 12-19-100 and 12-19-110 of this Chapter. (Ord. 789 §18-526, 2006; Ord. 811 §1, 2009)

Sec. 12-19-20. Buildings and uses not designated.

Parking requirements for existing buildings and uses not specifically listed in this Article shall be determined by the Board of Adjustment after a report and recommendation from the Planning and Zoning Commission based upon the requirements of comparable uses listed. Parking requirements for new buildings and uses not specifically listed in this Article shall be determined by the City Council after a report and recommendation from the Planning and Zoning Commission. (Ord. 789 §18-527, 2006)

Sec. 12-19-30. Multiple uses in single structure or parcel.

If several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately, unless evidence presented by the applicant indicates that staggered hours of operation, shared trips and other factors support a reduction in parking requirements. Any reduction in parking requirements shall be approved by the City Council upon a recommendation from the Planning and Zoning Commission. (Ord. 789 §18-528, 2006)

Sec. 12-19-40. Joint use.

If approved by the City Council, owners of two (2) or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap or shared trips can be factored; provided that satisfactory legal evidence is presented to the City Manager in the form of deeds, leases or contracts to establish the joint use. (Ord. 789 §18-529, 2006)

Sec. 12-19-50. Location restriction.

(a) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling.

(b) Other required parking spaces shall be located not farther than three hundred (300) feet from the building or use they are required to serve, measured in a straight line from the building. (Ord. 789 §18-530, 2006)

Sec. 12-19-60. Use restriction.

Required parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons and employees only, and shall not be used for parking or storage of vehicles or materials used in conducting the business or use. (Ord. 789 §18-531, 2006)

Sec. 12-19-70. Plan required; contents.

(a) A plan, drawn to scale, indicating how the off-street parking and loading requirements, excluding one-unit dwelling areas, are to be fulfilled, shall accompany an application for a site permit and building permit.

(b) The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

- (1) Delineation of individual parking and loading spaces.
- (2) Circulation area necessary to serve spaces.
- (3) Access to streets and property to be served.
- (4) Curb cuts.
- (5) Dimensions, continuity and substance of screening.
- (6) Grading, drainage, surfacing and sub-grading details.
- (7) Delineation of obstacles to parking and circulation in the finished parking area.
- (8) Specifications as to signs and bumper guards.
- (9) Other pertinent details. (Ord. 789 §18-532, 2006)

Sec. 12-19-80. Design requirements for parking lots.

Design requirements for parking lots shall be as follows:

(1) Parking lot surfaces. All off-street parking lots shall have a hard surface such as hot-mix asphalt, poured-in-place concrete, brick or other similar material.

(2) Screening. Except for parking to serve residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection of screening between the uses except where vision clearance is required.

(3) Spaces along outer boundaries. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or wheel stops at least four (4) inches high and set back a minimum of four (4) feet from the sidewalk or property line or shall be contained by a bumper rail set back a minimum of one (1) foot from the sidewalk or property line.

(4) Artificial lighting. Artificial lighting used to illuminate required off-road parking areas shall be arranged in conformance with the following:

- a. Lights shall be shielded so that directly emitted light shall not shine directly onto surrounding properties.

b. Light shall be arranged so that neither direct nor reflected light may create a traffic hazard, and no color lights may be used in a manner which would be confused with traffic control devices.

c. No blinking, flashing, rotating or otherwise animated lights shall be permitted except temporary holiday lighting displays or safety devices required by federal, state, county or local regulations.

d. Light fixtures shall be either low-pressure sodium or metal halide. Mercury vapor lighting fixtures are prohibited.

(5) Parking lot size. Large-scale parking lots are discouraged. When one hundred twenty (120) or more parking spaces are needed, parking lots should be separated, dispersed on the site, well-screened from roads and attractively landscaped to reduce heat buildup and provide an attractive environment. Landscape requirements are required within and along the edge of parking lots to ensure they do not dominate the environment in an unattractive manner.

(6) Parking lot setback. Parking lots shall be set back from the sidewalk and the side and rear-yard lot lines to allow room for screening, street trees, separated walks and bicycle ways, signs and other amenities. Parking lot setbacks shall be measured from the back of the required sidewalk of the roadway as shown on Table 12-18 below.

Table 12-18
Parking Lot Location

<i>Location of Parking Lot (From back of required sidewalk or bike path)</i>	<i>Minimum Depth (feet)</i>
Along arterials	20
Along collectors and locals	15
Along an interior lot line	10

(7) Service drives.

a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic and to provide maximum safety for pedestrians and vehicular traffic on the site.

b. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated.

c. In the case of a corner lot, service drives shall be located not closer than thirty (30) feet to the intersecting street line. The access to service drives from a street shall be located not closer than fifteen (15) feet to a side lot line, except that a common service drive to two (2) adjacent properties may be provided at the common lot line.

d. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line and a straight line joining the lines through points thirty (30) feet from their intersection.

(8) Parking lot layout.

- a. Circulation. Parking lots shall have clearly defined circulation routes.
- b. Landscaped islands. Landscaped islands shall be used to define the primary internal access drives, pedestrian refuge areas and the beginning and ends of parking aisles.
- c. Walkways. Walkways within parking lots shall be a minimum width of five (5) feet.
- d. Interrelationship of uses. The lot layout shall specifically address the interrelationship of pedestrian, vehicular and bicycle circulation to ensure safety and efficiency for all uses. Remedial design measures such as raised pedestrian crossings, special paving, painted surfaces, clearly identified crossings, lighting or other means may be needed to reduce conflict.
- e. Parking stall dimensions. Parking dimensions for automobiles shall meet the following minimum standards for long and short-term parking as shown on Table 12-19 below.

Table 12-19
Parking Stall Dimensions

<i>Parking Angle (degrees)</i>	<i>Stall Width (feet)</i>	<i>Stall Length (feet)</i>	<i>Aisles (feet)</i>
0	9	19	NA
30	9	19	11
45	9	19	12
60	9	19	18
90	9	19	24

- f. Parking rows and aisles. Parking rows and aisle widths shall not encroach on public rights-of-way and shall be made with the minimum aisle widths for turning movements as shown on Table 12-20 below.

Table 12-20
Parking Rows and Aisles

<i>Parking Angle (Degrees)</i>	<i>Aisle Width (Feet)</i>
0	12
20	11
30	11
40	12
45	12
50	12
60	18
70	19
80	24
90	24

g. Handicapped size and marking. Parking spaces for the physically handicapped shall be thirteen (13) feet wide, unless the space is parallel to a pedestrian walk. The parallel-handicapped parking space shall be adjacent or close to an ADA-approved ramp. Other dimensions shall be the same as those for standard vehicles. Handicapped spaces shall have unimpeded ramp access to a walk. Every handicapped parking stall shall be identified at the head of the parking space with a raised, standard identification sign, centered between three (3) feet and five (5) feet above the parking surface. The sign shall include the international symbol for accessibility and state "reserved," or contain similar wording. (Ord. 789 §18-533, 2006; Ord. 811 §1, 2009)

Sec. 12-19-90. Parking lots; completion time.

(a) Required parking spaces shall be improved as required and made available for use prior to the issuance of the certificate of occupancy.

(b) An extension of time may be granted by the City provided that a performance bond, or its equivalent, is posted equaling the cost to complete the improvements as estimated by the City, provided that the parking space is not required for immediate use.

(c) If the improvements are not completed within one (1) year's time, the bond, or its equivalent, shall be forfeited and the improvements thenceforth constructed under the direction of the City. (Ord. 789 §18-534, 2006)

Sec. 12-19-100. General parking requirements.

(a) At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the City, off-street parking spaces shall be provided as required in this Article. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Article.

(b) Notwithstanding Subsection (a) above, if the applicant can show that strict adherence to the provision of the number of parking spaces required herein is excessive, a variance per Article 2 of this Chapter may be considered where a tradeoff for additional landscaping is proposed.

(c) The number of employees of a new or expanding business shall be estimated in a manner approved by the Planning and Zoning Commission. The number of employees of an established business shall be determined from an examination of employment information presented by the applicant.

(d) Uses in the area designated as the CB District shall be exempt from the requirements of this Section and Section 12-19-110 below. (Ord. 789 §18-535, 2006; Ord. 811 §1, 2009)

Sec. 12-19-110. Parking requirements for specific uses.

Required off-street parking spaces for the following uses shall be as set forth in Table 12-21 below.

**Table 12-21
Parking Space Chart**

<i>Use</i>	<i>Spaces Required</i>
Amusement establishments	1 space per 300 square feet of gross floor area.
Auditoriums and meeting rooms	1 space per 4 seats or 8 feet of bench length or 3 spaces per 100 square feet of gross floor area.
Banks, business and professional offices, public administration buildings	1 space per 300 square feet of gross floor area.
Boardinghouses, fraternity and sorority houses	1 space per 200 square feet of gross floor area.
Church auditoriums	1 space per 3 seats.
Churches	1 space per 3 seats.
Colleges, schools for adults	1 space per 5 seats in classroom.
Department stores	1 space per 200 square feet of gross floor area.
One-unit dwellings	2 unencumbered spaces per one-unit dwelling.
Dwelling units, multi-family	1.5 spaces per dwelling unit plus 1 parking space for visitors for every 5 dwelling units.
Elementary, junior high or high schools	1 space per classroom plus 1 space per administrative employee plus 1 space per 4 seats or 8 feet of bench length in the auditorium, assembly room or stadium, whichever is greater.
Hospitals	1 space per 1.5 beds or 1 space per 300 square feet of gross floor area, whichever is greater.
Hotels and motels	1 space for each lodging unit plus additional spaces as required for supplementary uses (i.e., bars, dining rooms).
Libraries	1 space per 400 square feet of floor area.
Liquor stores	1 space per 100 square feet of gross floor area.
Lodges and clubs	1 space per 300 square feet of gross floor area.
Manufacturing and industrial uses	2.4 spaces per 1,000 square feet of gross floor area
Medical and dental offices and general offices	1 space per 300 square feet of gross floor area.
Mixed uses	Requirements shall be the sum of the requirements of the various uses (cumulative).
Manufactured home single-wide	2 car spaces for each manufactured home single-wide space. Minimum size shall be 8 feet by 20 feet.
Sanitariums, rest homes and homes for the aged	1 space per 5 beds for patients or inmates.
Nursing homes and convalescent homes	1 space per 500 square feet of gross floor area.
Offices and administration buildings	1 space per 300 square feet of gross floor area.
Preschools, nurseries and kindergartens	2 spaces per teacher.
Public offices	1 space per 300 square feet of gross floor area.
Racetracks	1 space per 2 seats.
Restaurants	1 space per 200 square feet of gross floor area.

Retail sales and services	1 space per 200 square feet of gross floor area.
School auditoriums	1 space per 3 seats.
Stadiums and arenas	1 space per 4 seats or 8 feet of bench length.
Use not specifically mentioned	Parking requirement for use generally similar to subject use.
Utility, service and storage buildings	1 space per 600 square feet of gross floor area.
Welfare or correctional institutions	1 space per 5 beds for patients or inmates.
Wholesale businesses	1 space per 300 square feet of gross floor area.

(Ord. 789 §18-536, 2006; Ord. 811 §1, 2009)

Sec. 12-19-120. Loading.

(a) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school or day care facility having a capacity greater than twenty-five (25) students.

(b) Merchandise, materials or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Chapter shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs. (Ord. 789 §18-537, 2006)

Sec. 12-19-130. Off-street stacking.

A stacking space is an area for motor vehicles to line up in while waiting to go through a drive-through facility, or within a designated drop-off or pick-up zone. The purpose of stacking space requirements is to promote public safety by alleviating on-site and off-site traffic congestion that might otherwise result from the operation of such a facility. In all applicable districts, the following off-street stacking requirements shall apply:

- (1) At a minimum a stacking space shall be eight and one-half (8.5) feet wide and eighteen (18) feet long.
- (2) A stacking space at a drive-in or drive-through window, menu board, order station, designated drop-off zone or service bay is considered to be a stacking space.
- (3) An area reserved for stacking spaces may not double as a circulation driveway, maneuvering area or off-street parking space.
- (4) Stacking spaces may be located anywhere on the building site, provided that traffic impacts on- and off-site are minimized and the location does not create negative impacts on adjacent properties due to noise, light or other factors. (Ord. 789 §18-538, 2006)

ARTICLE 20

Signs

Sec. 12-20-10. Purpose and intent.

(a) General purposes.

(1) Signing is an important aspect of any community. When abused, signing creates a visual blight which detracts from the quality of the environment. When unduly restricted, the act of signing creates a hardship for merchants who rely on effective signing to identify their establishments. Further, in the City, exterior signs affect the economic and aesthetic values and character of the community in that the City is partially dependent upon traveling tourists who seek the City for its character, style and quality of merchandise and who spend money with local merchants. Orderly signing also contributes to the protection and promotion of the health, safety and welfare of the traveling public and the citizens of the City.

(2) The intent of this Article is to provide a legal framework for an orderly but balanced system of signing in the City. Regulations of such factors as size, location, illumination, etc., will encourage the communication of information and orientation for both visitors and citizens, provide for the effective identification of business establishments and minimize distractions to motorists and pedestrians while promoting visual harmony, safety and a respect for the environmental character of the community. Signs in the downtown business area are intended to complement, enhance and promote the revised City of Monte Vista Urban Renewal Plan, adopted in 2005, by the Monte Vista Urban Renewal Authority.

(3) With these goals and purposes in mind, the City Council hereby declares that the enactment of this comprehensive Sign Code is necessary to achieve the above-stated purposes and to accomplish the following objectives.

(b) Objectives.

(1) To enhance the economy and the business and industry of the City by promoting the reasonable, orderly and effective display of signs and esthetic values and encouraging better communication with the public.

(2) To protect and encourage local tourist-related businesses for the general economic well-being of this area and the State.

(3) To encourage sound signing practices and lessen the objectionable effects of competitive signing.

(4) To preserve the value of private property by assuring the compatibility of signing with surrounding land uses.

(5) To promote public pride and spirit both on a statewide and local level.

(6) To ensure that signs erected within the City are compatible with their surroundings.

(7) To establish procedures and regulations which control the location, size, type and number of signs permitted and which regulate and control all other matters pertaining to signs.

(8) To provide for special regulations in areas which, by nature or location, are unique to certain areas of the City.

(9) To provide for an equitable mechanism whereby those signs, which are nonconforming to these regulations, can be removed. (Ord. 789 §18-561, 2006)

Sec. 12-20-20. Definitions.

This Article shall be known as the "Sign Code." All words used in this Article, except where specifically defined herein, shall carry their customary meaning when not inconsistent with the context in which they are used. Definitions contained in this Chapter shall apply to this Article. The following words as hereinafter set forth shall have the meanings as hereinafter defined:

Abandoned sign means a sign no longer in use or a sign providing obsolete or outdated copy information.

Advertising sign means a sign which directs attention to a business commodity, service or entertainment which is conducted, sold or offered.

Animated sign means any sign or part of a sign which changes physical position by any movement or rotation or signs that simulate movement by means of lighting.

Area means the total exposed surface devoted to a sign message, including ornamentation, embellishment and symbols, but excluding supporting structures.

Awning sign means a wall sign which is painted, stitched, sewn or stained onto the exterior of an awning. An *awning* is a movable shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

Billboard sign means a sign supported by multiple poles or posts and at least eight (8) feet in width and four (4) feet in height.

Building facade means the frontage of a building which faces and is most nearly parallel to a public or private street. There can be only one (1) building facade for each street upon which a building faces.

Bulletin board sign means a sign that is accessory to a church, school or public or nonprofit institution announcing the name of the institution or organization and announcements of persons, events or activities occurring at the institution. The sign may also present a greeting or similar message.

Canopy sign means a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building by columns extending from the ground or by a combination of a building and columns.

Changeable-letter sign means a sign whereon provisions are made for letters or characters to be placed in or upon the surface area, either manually or electronically, to provide a message or picture.

Decorative projecting sign means a sign composed of wood, fiberglass, plastic, metal and/or similar materials compatible with and complementing the theme of downtown development and historic restoration and subject to approval by the City Manager.

Direct illumination means a sign characterized by lighted lettering.

Directional sign means any sign that directs the movement or placement of pedestrian or vehicular traffic.

Electrical sign means any sign containing electrical wiring. This does not include signs illuminated by an exterior light source.

Erect means to construct or allow to be constructed.

Face means the surface of a sign directed to the viewer (which may be single-face, double-face or multi-face) upon, against or through which the message is displayed or illuminated.

Freestanding sign means a detached sign which is supported by one (1) or more columns, uprights or braces extended from the ground or from an object on the ground, or a detached sign which is erected on the ground; provided that no part of the sign is attached to any part of any building structure or other sign. A *freestanding sign* shall include billboard signs, pole signs and similar detached signs allowed by this Code.

Ground/monument sign means a type of freestanding sign utilizing no pole or similar supports and constructed from ground level utilizing rock, stone, brick, masonry, stucco and similar building materials. Ground signs may have changeable, affixed or inlaid lettering and may or may not be illuminated. Ground signs shall not exceed six (6) feet in height and twelve (12) feet in length, and may be double- or multi-faced.

Home occupation sign means a decorative sign placed on the premises of a residence in a residential area designed to identify a home occupation but clearly secondary to the character of the residence.

Identification sign means a sign identifying the name of a business or residential neighborhood.

Illegal sign means a sign failing to conform to the provisions and requirements of this Article as further specified in Section 12-20-50 of this Article.

Illuminated sign means a sign lighted by or exposed to artificial lighting either by lights directed towards the sign or by internal illumination.

Indirect lighting means a light from a source projected into the face of the sign.

Internal illumination means a light from a source concealed or contained within the sign, and which becomes visible through a translucent surface.

Maintain means to preserve or keep in repair such sign, including any illumination source, in a neat and orderly condition and in good working order at all times to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign.

Nameplate sign means a sign giving the name and/or address of the occupant of a building or premises on which it is located and, where applicable, a professional status.

Nonconforming sign means a sign which fails to conform to the requirements and provisions of this Article and which was lawfully erected, altered, moved or maintained under previous ordinances of the City, but does not conform to the provisions of this Article or has been subsequently granted a variance from this Article.

Off-premises advertising sign means a sign relating to a business or its products or services, which is not located on the same premises as the business.

Owner means the owner of a sign, the lessee of the sign, the fee holder of the property upon which the sign is located, the lease holder of such property or the individual, person or business who has purchased the sign.

Pedestrian-oriented sign means a sign located in such a manner as to be generally viewed or read by a person who is walking.

Permanent sign means a sign which is permanently affixed or attached to the ground or to a structure.

Pole sign means a sign supported by a single pole, and which sign may be metal, plastic or similar material and may be illuminated.

Portable sign means a sign which is not permanently affixed or attached to the ground or to a structure or which is mounted upon, painted or otherwise erected upon a vehicle, van, truck, automobile, bus, railroad car or other vehicle in operating condition.

Premises means the central, actual, physical location where an activity is routinely conducted. The *premises* include the primary structure, parking facilities and private roadway if they are necessary to the principal activity.

Prohibited sign means a sign failing to conform to the provisions and requirements of this Article and as further specified in Section 12-20-50 of this Article.

Projecting sign means any sign supported by a building wall and projecting therefrom at least twelve (12) inches or more horizontally beyond the surface of the building to which the sign is attached.

Property/parcel means a contiguous area of land under one (1) ownership.

Public use means a use which is owned and operated for the public by school districts or special districts, or by City, county, state or federal government.

Roof line means the low edge of the roof or parapet.

Roof sign means a sign, any part of which is located on or attached to a roof and projecting above the roof line of the building or structure.

Sign means any object, device, display or structure or part thereof which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.

Temporary sign means a banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard or other like materials, or a sign mounted on a trailer or other moveable device which is intended to be displayed for a limited period of time.

Theater marquee sign means a changeable letter sign which may protrude from the building structure which it advertises.

Variance means a special ruling or allowance by the Board of Adjustment which does not require compliance with a specific portion of this Article.

Wall sign means a sign attached to, painted on or erected against a wall of a building or structure which extends no more than twelve (12) inches from the wall surface upon which it is attached and whose display surface is parallel to the face of the building to which the sign is attached.

Wind sign means any sign in the nature of banners, flags, pennants or other objects of material, fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

Window sign means:

a. *Permanent.* Any sign visible from the exterior of a building or structure which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper or other material and placed, taped or displayed from a window for the specific purpose of identifying the proprietor or name of the business to the passerby.

b. *Temporary.* A sign visible from the exterior of a building or structure which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper or other material and placed, taped or displayed on a window for the specific purpose of attracting attention of the passerby to a sale or to promotional items or other products or services, other than the identity of the proprietor or the name of the business. (Ord. 789 §18-562, 2006; Ord. 811 §1, 2009)

Sec. 12-20-30. Sign permits.

(a) Sign permit required. To ensure compliance with the regulations of this Article, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with Section 12-20-40 below. In multiple tenant buildings, a separate permit shall be required for each business entity's signs. All electrical signs must receive an electrical permit prior to receiving a sign permit.

(b) Application for a sign permit.

(1) Sign permit application requirements. Applications for sign permits shall be made in writing on forms furnished by the City. The application shall contain:

a. The location by street number and the legal description of the property upon which the sign is proposed;

b. Names and addresses of the owner, sign contractor and erectors;

c. Legible site plans which include the specific location of the sign and setbacks to adjacent property lines and buildings. The site plan shall also include the outline of building elevations showing all existing and proposed signs. Site plans for off-site signs shall show the location of any other existing off-site signs within one hundred (100) feet;

d. A detailed drawing indicating the sign elevation, dimensions, materials and colors of the proposed sign structure. A certification by a structural engineer may be required for freestanding or projecting signs;

e. A graphic drawing or photograph of the sign copy;

f. A description of the lighting to be used, if applicable;

g. Electrical permit for all illuminated signs;

h. Proof of public liability insurance covering freestanding signs and projecting wall signs;

i. If the sign is to be located off the premises advertised, a written lease or permission from the property owner of the site on which the sign will be located; and

j. Payment of appropriate sign permit fees as established by the current fee schedule.

(2) Sign permit application review: Review of the application shall be by City staff. Review of the sign permit application shall be completed within ten (10) working days following receipt of the completed application. Staff shall either certify the application is complete and in compliance of all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies.

(3) Staff review and approval. When staff has determined the application to be complete, staff shall review the sign permit in accordance with the established review criteria and has the authority to approve, approve with conditions or deny the sign permit. Upon staff's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.

(4) Sign permit review criteria. The following review criteria will be used by the staff to evaluate all sign permit applications:

a. The sign meets the requirements of this Article.

b. The sign conforms to the requirements of the Building and Electrical Codes.

- c. The sign conforms to the size, height, material and location requirements of this Chapter for the zoning district in which it is located.
- d. The sign would not interfere with pedestrian or vehicular safety.
- e. The sign would not detract from the character of an architecturally significant or historic structure;
- f. The sign would not be located so as to have a negative impact on adjacent property.
- g. The sign would not detract from the pedestrian quality of street or area;
- h. The sign would not add to an over-proliferation of signs on a particular property or area.

(5) Appeal of sign permit denial or approval with conditions. When a variance is requested for a sign, said request for variance shall be heard and acted upon by the Board of Adjustment after action by the staff. Such request for variance shall not be heard until all other administrative procedures required for issuance of a sign permit have been completed. The Board of Adjustment is authorized to grant a variance from the provisions of this Article when it finds that unique situations require a deviation from such provisions and that the purpose and intent of this Article are not violated, and shall be further governed by the provisions applicable to the Board of Adjustment contained in this Chapter. (Ord. 789 §18-563, 2006)

Sec. 12-20-40. Sign exemptions.

The following types of signs are exempt from the permit requirements of this Article and may be placed in any zoning district subject to the provisions of this Article. Such signs shall otherwise be in conformance with all applicable requirements contained in this Article. All such signs (except government signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of the owner's permission to install a sign may be required. All other signs shall be allowed only with permits and upon proof of compliance with this Article.

(1) Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way, except that such signs shall be subject to the safety regulations of the International Building Code and the National Electrical Code.

(2) A-frame sidewalk signs are not to exceed four (4) feet by three (3) feet in total area. A-frame sidewalk signs may not be placed so as to create a safety hazard or impede the flow of pedestrian traffic.

(3) Address. Nonilluminated signs not to exceed two (2) square feet in area which identify the address and/or occupants of a dwelling unit or of an establishment.

(4) Architectural features. Integral decorative or architectural features of buildings, so long as such features do not contain letters, numerals, trademarks, moving parts or lights.

(5) Art. Integral decorative or architectural features of buildings, works of art, so long as such features or works do not contain letters, trademarks, moving parts or lights.

(6) Banners, seasonal flags, pennants, wind socks and other decorative wind signs. Such items may be flown or hung in any residential, commercial or industrial zone district of the City, provided that they do not obstruct pedestrian traffic, do not present additional advertising material in addition to a business' wall or hanging signs, do not obstruct neighboring signs and do not present visual clutter in the commercially zoned areas of the City. Such items should be no larger than fifteen (15) square feet in residential areas and forty (40) square feet in commercial areas.

(7) Banners, commercial. Banners applied to paper, plastic or fabric used to attract attention to a business establishment, provided that:

a. The signs are displayed in conjunction with a grand opening celebration for a period not to exceed thirty (30) days.

b. The signs are displayed in conjunction with a special sale for a period not to exceed thirty (30) days.

c. The signs are displayed no more than two (2) times per calendar year per establishment.

d. The banner shall be securely attached to the wall of the establishment, freestanding signs or light poles on private property.

e. One (1) banner per street frontage per establishment shall be permitted.

(8) Building identification, historical markers. Nonilluminated signs constructed of metal or masonry which are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information as approved by City staff.

(9) Bulletin board. Bulletin board signs not exceeding fifteen (15) square feet in gross surface area accessory to a church, school or public or nonprofit institution.

(10) Construction. Temporary construction signs, provided that:

a. Signs in conjunction with any residential use shall not exceed eight (8) square feet each.

b. Signs in conjunction with all other uses shall have a maximum area of thirty-two (32) square feet each.

c. Only one (1) such sign oriented per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least one hundred (100) feet apart as measured by using a straight line.

d. Such signs shall not be illuminated.

e. Such signs shall only appear at the construction site.

f. Such signs shall be removed within seven (7) days after completion of the project.

(11) Courtesy. Nonilluminated or indirectly illuminated signs which identify, as a courtesy to customers, items such as credit cards accepted, redemption stamps offered, menus or prices; limited to

one (1) such sign for each use, not to exceed four (4) square feet per face or eight (8) square feet in total area. Such signs may be attached to the building, as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign.

(12) Decorations (holiday). Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, state, local or religious holiday or celebration; provided that such signs shall be displayed for not more than sixty (60) days in any one (1) year, and may be of any type, number, area, height, location, illumination or animation.

(13) Directional. On-premises directional and instructional signs not exceeding six (6) square feet in area apiece.

(14) Doors. Signs affixed to door glass which identify the name and/or address of an establishment.

(15) Farm products. Temporary farm product signs provided that:

a. One (1) on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet away from any side lot line. Such sign shall have a maximum area of nine (9) square feet and may not be illuminated.

b. A maximum of two (2) off-premises signs shall be permitted. Said off-premises signs may be no greater than four (4) square feet apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way or within ten (10) feet of a side lot line, and only within the CH and I Districts which permit off-site advertising. See Section 12-20-110 of this Article for height requirements.

(16) Flags. Flags or crests of nations, organizations of nations, states and cities or professional, fraternal, religious or civic organizations, except when displayed in connection with commercial promotion. Flags shall be no larger than fifteen (15) square feet in residential areas and forty (40) square feet in commercial areas.

(17) Garage, estate, yard sale or farm auction. Signs which advertise a private garage or yard sale on the lot on which the sign is located; provided that such signs are displayed no more than twice per year per dwelling unit for a period not to exceed three (3) days.

(18) Hazards. Temporary or permanent signs erected by the City, public utility companies, oil and gas companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.

(19) Memorial. Memorial signs, plaques or grave markers which are noncommercial in nature.

(20) Merchandise. Merchandise, pictures or models of products or services which are incorporated as an integral part of a window display.

(21) Oil and gas operation. Identification signs for any oil and gas operation, excluding gas and oil retail enterprises.

(22) Political. Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office, provided that:

- a. The total area of all such signs on a lot does not exceed sixteen (16) square feet.
- b. All such signs may be erected no sooner than sixty (60) days in advance of the election for which they were made.
- c. The signs are removed within seven (7) days after the election for which they were made.

The property owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be responsible for violations. Signs shall not be placed in the public right-of-way.

(23) Public information. Signs which identify restrooms or public telephones or provide instructions as required by law or necessity, provided that the sign does not exceed two (2) square feet in area or as approved by staff and is nonilluminated, internally illuminated or indirectly illuminated. This category shall be interpreted to include such signs as "no smoking," "rest rooms," "no solicitors," "self-service" and similar informational signs.

(24) Religious symbols. Religious symbols located on a building or lot used for organized religious services.

(25) Regulatory signs. Regulatory signs erected on private property, such as "no trespassing" signs, which do not exceed two (2) square feet per face or four (4) square feet in total surface area, limited to four (4) such signs per use or per building, whichever is the greater number.

(26) Sale, lease, rent. Temporary signs used to offer for sale, lease or rent the land or buildings upon which the sign is located, provided that:

- a. One (1) sign per street frontage advertising real estate ("For Sale," "For Rent," "For Lease" or "For Development") not greater than eight (8) square feet in area and five (5) feet in overall height in a residential district.
- b. In nonresidential zone districts, the sign area shall not exceed thirty-two (32) square feet and shall not exceed five (5) feet in overall height.
- c. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two (2) signs are at least one hundred (100) feet apart as measured by the shortest straight line.
- d. All such temporary signs shall be removed within seven (7) days after the real estate closing or lease transaction.

- e. No sign allowed under this Subparagraph shall be lighted.

(27) Scoreboards. Scoreboards for athletic fields.

(28) Special events. Temporary special event signs and banners for religious, charitable, civic, fraternal or similar nonprofit or not-for-profit organizations, provided that:

- a. Signs shall be erected no sooner than thirty (30) days prior to and removed no later than seven (7) days after the event.
- b. No such sign shall exceed thirty-two (32) square feet.
- c. No such sign shall be illuminated.
- d. All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the City or the Colorado Department of Transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (government signs, telephone poles, etc.)

(29) Strings of light bulbs. Displays of string lights, provided that:

- a. They are decorative displays which only outline or highlight landscaping or architectural features of a building.
- b. They shall not be assembled or arranged to convey messages, words, commercial advertisements, slogans and/or logos.
- c. They shall not create a safety hazard with respect to placement, location of electrical cords or connection to power supply.
- d. They shall be maintained and repaired so that no individual light bulb is inoperative. In the event the bulbs are not maintained or repaired, the string lights may be removed at the expense of the owner after giving notice to the owner pursuant to this Article.

(30) Temporary barrier.

(31) Text. No permit shall be required for text or copy changes on conforming or legal nonconforming signs specifically designed to permit changes of the text or copy; provided that no structural changes are made to the sign, and provided that the name of the business to which the sign belongs is not changed.

(32) Time and temperature. Signs displaying time and temperature devices, provided that they are not related to a product.

(33) Traffic control. Signs for the control of traffic or other regulatory purposes, including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his or her duty.

(34) Vacancy and no vacancy. All "vacancy" and "no vacancy" signs, where they are nonilluminated, internally illuminated, indirectly illuminated or directly illuminated; provided that the area of the sign does not exceed two and one-half (2½) square feet per face. Also, signs designed to indicate vacancy such as "yes," "no" or "sorry" shall also be exempt under the provisions of this Subparagraph if they meet the area requirement.

(35) Vehicular for sale signs. Motor vehicle for sale signs provided there is only one (1) sign per vehicle and the sign does not exceed two (2) square feet.

(36) Vehicular signs. Signs displayed on trucks, buses, trailers or other vehicles which are being operated or stored in the normal course of a business, such as signs indicating the name of the owner or business which are located on moving vans, delivery trucks, rental trucks and trailers and the like, shall be exempt from the provisions of this Article, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles.

(37) Vending machine signs. A sign permit shall not be required for vending machine signs, provided that the advertisement upon the vending machine sign is limited to the product vended.

(38) Window signs. (Ord. 789 §18-564, 2006; Ord. 811 §1, 2009)

Sec. 12-20-50. Prohibited signs.

The following signs are inconsistent with the purposes and standards in this Article and are prohibited in all zoning districts.

(1) Revolving beacon, flashing, blinking, rotating, moving and animated signs or any other sign that creates the illusion of movement and is designed to compel attention, except for time and temperature devices.

(2) Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic or traffic-control devices, including any sign that obstructs clear vision in any direction from any street intersection or driveway.

(3) Any sign, other than traffic-control signs, erected, constructed or maintained within, over or upon the right-of-way of any road or highway, except in the case of a sign for which a permit has been issued within the requirements of this Article.

(4) Off-premises advertising signs or any other sign not pertinent and clearly incidental to the permitted use on the property where located, except for temporary subdivision directional signs and political signs and signs permitted in the CH and I Districts in accordance with Section 12-20-110 of this Article.

(5) Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.

(6) Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.

(7) Vehicle-mounted signs, including but not limited to signs painted on or attached to semi-trailers or cargo containers when exhibited on private property adjacent to public right-of-way for the purpose of advertising a business or service. Vehicle-mounted signs used in connection with a special event are exempted from the requirements of this Section during the duration of the special event only.

Upon the conclusion of the special event, such signs must be dismantled. For the purposes of this Paragraph, the term *special event* shall mean a parade, circus, fair, carnival, festival, farmers' market or other similar event that is different in character from the customary or usual activities generally associated with the property upon which the special event is to occur.

(8) Portable signs or signs not permanently affixed or attached to the ground or to any structure.

(9) Patterned signs that give the illusion of motion or changing of copy.

(10) Inflatable freestanding signs or tethered balloons.

(11) Fabric signs, flags, pennants or banners when used for commercial advertising purposes except as permitted in Section 12-20-40 above.

(12) Electronic message boards except for governmental signs and those within the CH and I Districts.

(13) Abandoned or unused sign, including a sign located off-premises, which is a sign that advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located.

(14) Any sign or sign structure which:

- a. Is structurally unsafe;
- b. Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
- c. Is not kept in good repair; or
- d. Is capable of causing electrical shocks to persons likely to come in contact with the sign.

(15) Any sign or sign structure which:

- a. In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;
- b. Creates in any other way an unsafe distraction for motor vehicle operators; or
- c. Obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare. (Ord. 789 §18-565, 2006)

Sec. 12-20-60. Administration and enforcement.

The following regulations apply to all signing and/or to the specific type of sign hereinafter indicated:

(1) Regulation and standards:

- a. Sign permits shall not be issued for new signing at business locations where nonconforming signing exists.

b. Only signs specifically identified in this Article shall be eligible to receive a sign permit.

c. In all instances, any sign erected within the City must comply with the provisions of the International Building Code.

d. When a mural includes identification of an establishment or specifies such information, it shall have its area included in calculations pursuant to Section 12-20-70 below.

(2) Enforcement:

a. Unused or abandoned signs. An unused or abandoned sign is a sign which meets any of the following criteria:

1. A sign which identifies an establishment, goods or services which are no longer provided on the premises where the sign is located, except for historical signage as determined by City staff.

2. A sign which identifies a time, event or purpose which has passed or no longer applies.

3. An off-premises advertising sign which advertises an establishment, goods or services which no longer exist.

b. Penalties: A violation of any of the provisions of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. In addition, after a citation has been issued, each day a violation continues to occur shall constitute a separate violation for the above-described fine. Further, the Municipal Court may enjoin the removal of signs which do not conform to the provisions of this Article.

c. Removal of illegal signs:

1. Removal. Any illegal, nonconforming or unused sign which is not removed from the premises by the owner, user or property owner within the time frames prescribed in this Article shall be subject to removal by order of the City Manager in accordance with the provisions and procedures detailed in this Subparagraph c. Any prohibited sign (unused sign) which is not removed from the premises by the owner, user or property owner within the time frames prescribed herein shall also be considered a violation of the provisions of this Article, and shall be subject to the penalty as set forth in Subparagraph b. above.

2. Removal by City. Upon failure of the owner, user or property owner to comply within the specified time requirements as set forth in this Article, the City Manager is hereby authorized to cause such illegal, nonconforming or unused sign to be removed, and any expense attendant thereto shall be paid by the owner, agent or person having the beneficial use of the building, structure or premises upon which the sign is located. If said removal or alteration expense remains unpaid for more than thirty (30) days after said removal or alteration is performed and a bill for the same was mailed to the owner, agent or person having beneficial use of the building, structure or premises, by first-class mail, postage prepaid, with a certificate of mailing, said unpaid charge shall constitute a lien upon the real estate and may be certified by

the City Clerk to the County Treasurer as a lien assessment, to be applied and collected by the County Treasurer as an addition to the ad valorem taxes upon said property.

3. Storage of removed signs. Signs removed in compliance with this Subparagraph shall be stored by the City for thirty (30) days, during which they may be recovered by the owner only upon payment to the City for costs of removal and storage. If not recovered within the thirty-day period, the sign and supporting structure shall be declared abandoned and the title shall vest with the City. The costs of removal and storage (up to thirty [30] days) may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property. (Ord. 789 §18-566, 2006; Ord. 811 §1, 2009)

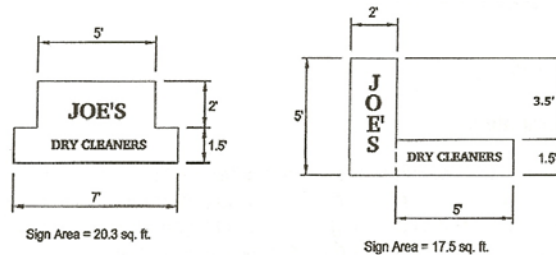
Sec. 12-20-70. Measurement of sign area and height.

(a) Sign surface area. The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas. Time and temperature devices shall not be included within the measurement of maximum sign area.

(1) Please reference Section 12-20-100 below for sign height regulations.

(2) Please reference Section 12-20-110 below for sign area regulations.

SIGN AREA MEASUREMENT



(b) Sign support. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

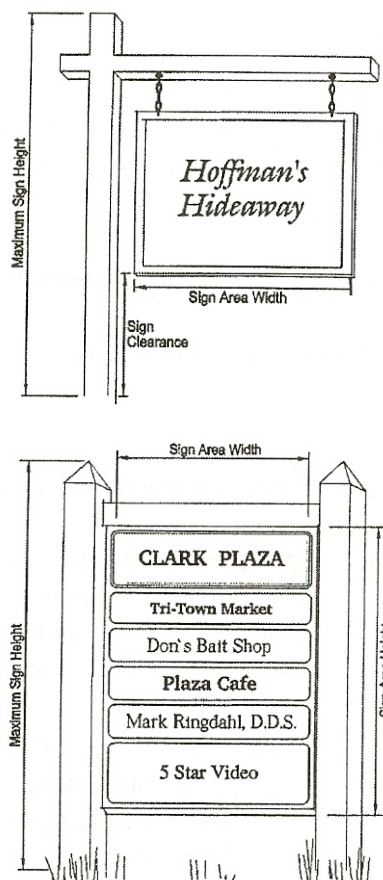
(c) Back-to-back (double-faced) signs. Back-to-back signs shall be regarded as a single sign only if mounted on a single structure and the distance between each sign face does not exceed two (2) feet at any point.

(d) Three-dimensional signs. Where a sign consists of one (1) or more three-dimensional objects (i.e.; balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane.

(e) Wall signs. If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area.

(f) Sign height. The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

**Sign Surface Area
SIGN MEASUREMENT DETAILS**



(Ord. 789 §18-567, 2006)

Sec. 12-20-80. Sign design.

(a) Design compatibility.

(1) Creative design encouraged. Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The City encourages imaginative and innovative sign design.

(2) Professional. Signs shall be made by a professional sign company or other qualified entity.

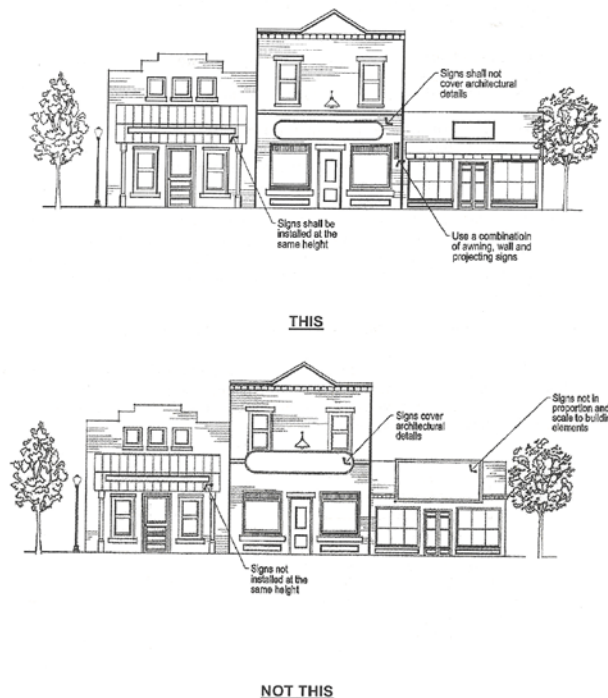
(3) Proportionate size and scale. The scale of signs shall be appropriate for the building on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade and conform to Section 12-20-100 below.

(4) Sign location and placement.

(5) Visibility. Signs shall not visually overpower nor obscure architectural features.

(6) Integrate signs with the building and landscaping. Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.

(7) Unified sign band. Whenever possible, signs located on buildings with the same block face shall be placed at the same height in order to create a unified sign band. Locate wall signs at the first floor level only for retail uses.

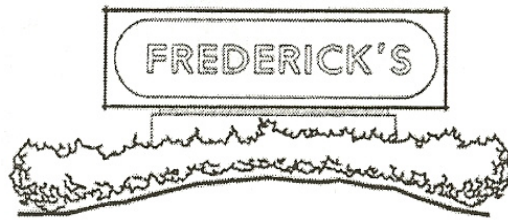


(8) Monument signs. Locate monument signs in a planter setting within a landscaped area at the primary entries to residential, commercial and industrial subdivisions to provide an overall project identity. A maximum of one (1) monument sign per entry is permitted.

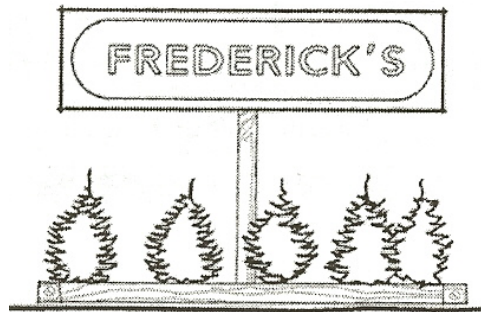
(9) Pedestrian-oriented signs. Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one (1) of the permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.

(10) Road right-of-way. No sign shall be erected within the road right-of-way or near the intersection of any road or driveway in such a manner as to obstruct free and clear vision of motorists or pedestrians or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device. Signs located at an intersection must be outside of the sight distance triangle.

(11) Landscaping. Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer.



THIS
Berm and foundations plantings
to relate to building treatment



NOT THIS
Landscaping too sparse and
poor visual base for sign

(12) Reduce sign impact. Because residential and commercial uses generally exist in close proximity, signs shall be designed and located so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.

REDUCE SIGN IMPACT



(b) Color.

(1) Select colors carefully. Colors shall be selected to contribute to legibility and design integrity. Sign colors shall complement the colors used on the structures and the project as a whole. Colors or combinations of colors that are harsh and disrupt the visual harmony and order of the street are unacceptable.

(2) Use contrasting colors. Provide a substantial contrast between the color and material of the background and the letters or symbols to make the sign easier to read during both the day and night. Light letters on a dark background or dark letters on a light background are most legible.

(3) Avoid using too many colors. Colors or color combinations that interfere with legibility of the sign copy or that interfere with viewer identification of other signs shall be avoided.

(c) Materials. Signs shall be constructed of durable, high-quality architectural materials. The sign package must use materials, colors and designs that are compatible with the building facade. Sign materials must be of proven durability. Treated wood, painted metal, stone, brick and stucco are the preferred materials for signs.

(d) Legibility. Signs shall be adequately legible under the circumstances in which they are primarily seen. The legibility of signs is related to:

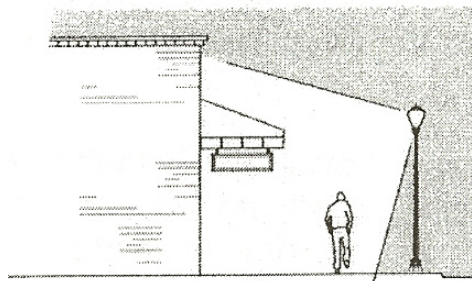
- (1) The speed at which they are viewed;
- (2) The context and surroundings in which they are seen; and
- (3) The design, colors and contrast of the sign copy and sign face.

The design of the sign, including copy, lettering size and style and colors, shall logically relate to the average speed of the traffic which will see it. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them. Symbols and logos can be used in place of words whenever appropriate.

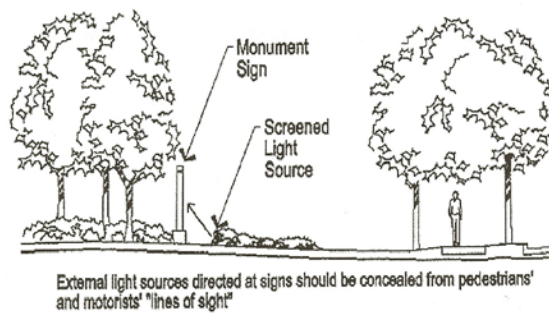
(e) Sign illumination.

- (1) Use illumination only if necessary.
- (2) Sign illumination shall complement, not overpower, the overall composition of the site.

USE OF EXISTING ILLUMINATION



(3) Use a direct light source. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from pedestrians' and motorists' "lines of sight."



(4) Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lit only to the minimum level for nighttime readability.

(5) All lighted signs shall meet all applicable electrical codes, and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs.

(6) Flashing, moving, blinking, chasing or other animation effects shall be prohibited on all signs except time and temperature signs.

(7) Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.

(8) The use of individually cut, back-lit letter signs is encouraged.

(9) No commercial sign within five hundred (500) linear feet of a pre-existing residential structure may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. A residence shall be deemed *pre-existing* for purposes of this Section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of the ordinance codified herein. (Ord. 789 §18-568, 2006)

Sec. 12-20-90. Sign installation and maintenance.

(a) Installation.

(1) All signs shall be mounted so that the method of installation is concealed.

(2) Projecting signs shall be mounted so they generally align with others in the block.

(3) All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical codes. The City Manager may inspect any sign governed by this Article and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

(b) Maintenance.

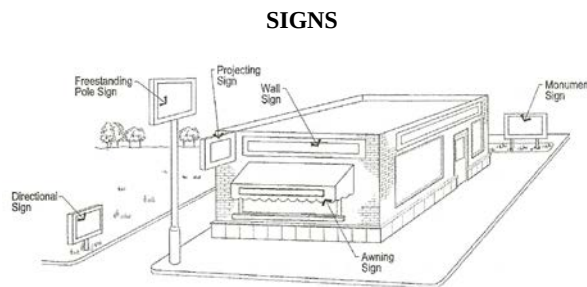
(1) The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in a neat and orderly condition and in good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes.

(2) The owner of any sign regulated by this Article shall be required to keep signs and supporting hardware, including temporary signs and time and temperature signs, structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

(3) The City Manager may inspect any sign governed by this Article and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence. (Ord. 789 §18-569, 2006)

Sec. 12-20-100. Standards for specific types of signs.

(a) Awning signs. An awning sign is a wall sign which is painted, stitched, sewn or stained onto the exterior of an awning. An awning is a movable shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.



(1) Location. Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way. No awning sign shall project beyond, above or below the face of an awning.

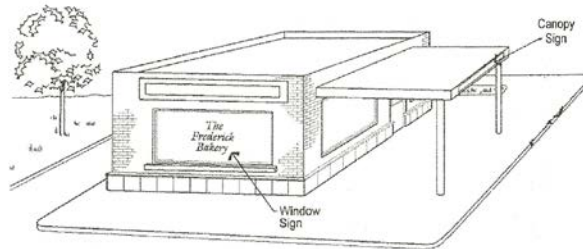
(2) Maximum area and height. Sign area shall comply with the requirements established by Section 12-20-110 below. No structural element of an awning shall be located less than eight (8) feet above finished grade. Awnings on which awning signs are mounted may extend over a public right-of-way no more than seven (7) feet from the face of a supporting building. No awning, with or without signage, shall extend above the roof line of any building.

(3) Lighting. Awnings shall not be internally illuminated except as part of a creative sign. Lighting directed downwards that does not illuminate the awning is allowed.

(4) Required maintenance. Awnings shall be regularly cleaned and kept free of dust and visible defects.

(b) Canopy signs. A canopy sign is a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

WINDOW AND CANOPY SIGNS



(1) Maximum area and height. Sign area shall comply with the requirements established by Section 12-20-110 below. No canopy, with or without signage, shall extend above the roof line of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, such sign may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than twelve (12) inches (measured from the bottom of the sign). Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting wall signs. Under-canopy signs which are parallel to the face of the building shall be a minimum of eight (8) feet above grade and shall be deemed to be flush wall signs.

(2) Required maintenance. Canopies shall be regularly cleaned and kept free of dust and visible defects.

(c) Freestanding signs. A freestanding sign is a sign which is supported by one (1) or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground, and shall also include a monument sign and pole signs but does not include a sign attached to a structure.

(1) Location. The sign may be located only on a site frontage adjoining a public street. No freestanding sign in any zoning district can be erected closer than eight (8) feet from any curblane, nor closer than four (4) feet to any building. No freestanding signs in business and industrial districts may be located less than twenty-five (25) feet from any property line adjacent to a residential zoning district line.

(2) Maximum area and height. The sign shall comply with the height and area requirements established in Section 12-20-110 below.

(3) Sign mounting. The sign shall be mounted on one (1) or more posts or have a solid monument-type base. Posts shall not have a diameter greater than twelve (12) inches.

(4) Pole signs. Pole signs should not be so large as to obscure the patterns of front facades and yards. Pole signs shall be no higher than a structure's roofline or the first-floor roofline of a multi-story building.

(d) Monument signs. A monument sign is a permanent sign where the entire bottom of the sign is affixed to the ground, not to a building.

(1) Location. The sign may be located only along a site frontage adjoining a public street.

(2) Maximum area and height. The sign shall comply with the height and area requirements established in Section 12-20-110 below.

(3) Design. The design of a monument sign shall be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct traffic safety sight distance areas. Project monument signs shall contain only the name and address of the project which it identifies.

(4) Landscaping requirements. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one (1) face of the sign. For example, twenty (20) square feet of sign area equals forty (40) square feet of landscaped area. The Planning and Zoning Commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.

(e) Off-premises advertising signs. Off-premises advertising signs, also known as off-site signs, are generally prohibited, except for those placed within the CH and I Districts. Off-premises signs shall not:

(1) Interfere with pedestrian or vehicular safety.

(2) Detract from the pedestrian quality of the surrounding area.

(3) Add to an over-proliferation of signs on one (1) property or in an area.

(4) Measure more than four (4) square feet.

(5) Measure more than twelve (12) feet in height.

(6) Number more than three (3) for any organization.

The owner of the sign shall be responsible for repair and maintenance of the sign.

(f) Projecting signs. A projecting sign is any sign supported by a building wall and projects at least twelve (12) inches or more horizontally beyond the surface of the building to which the sign is attached.

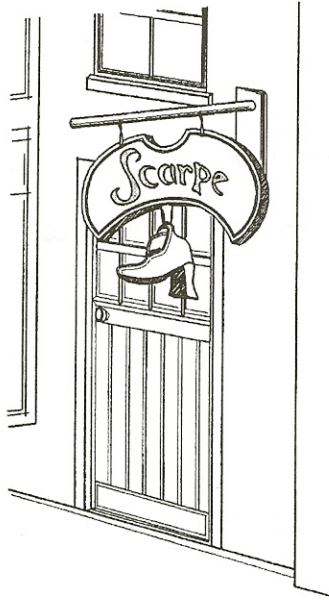
(1) Location. Projecting signs shall be placed only on a ground-floor facade except for businesses located above the ground level with direct exterior pedestrian access. Projecting signs should be mounted so that they generally align with others in the block. This helps to create a "canopy line" that gives scale to the sidewalk.

(2) Maximum area and height. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single-story building or the height of the bottom of any second-story window if attached to a multi-story building. Projecting signs must have eight (8) feet of clearance, and may not extend more than four (4) feet from the building wall except where the sign is an integral part of an approved canopy or awning. The size of projecting signs is limited to three (3) feet wide and six (6) square feet.

(3) Sign structure. Sign supports and brackets shall be compatible with the design and scale of the sign.

(4) Quantity. The number of projecting signs is limited to one (1) per business.

PROJECTING SIGN



(g) Standard brand-name signs. A standard brand-name sign is any sign devoted to the advertising of any standard brand-name commodity or service which is not the principal commodity or service being sold or rendered on the premises, or are not a part of the name or business concern involved. Not more than twenty percent (20%) of the total allowable sign area for any permitted use shall be devoted to the advertising of any standard brand-name commodity or service.

(h) Time and/or temperature signs. A time and/or temperature sign is any sign intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area or neighboring property.

(1) Maximum area. Time and/or temperature signs which do not exceed ten (10) square feet shall not be required to be included in the allowable sign area permitted in Section 12-20-70 above provided that any identification or advertising which is attached to or made part of the same sign structure shall be included in the allowable sign area for the premises.

(2) Design. The sign shall be designed in a manner that is compatible with other signs on the site and with the structure on which it is placed.

(3) Maintenance. It shall be the responsibility of the owner of such signs to maintain such signs and ensure that they are kept accurate. If these conditions are not met, the sign shall be repaired or removed.

(i) Wall signs. A wall sign is any sign painted on, incorporated in or affixed to the building wall or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

(1) Location. The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail. Locate wall signs on buildings at the first-floor level only for retail uses. No part of a wall sign shall be located more than twenty-five (25) feet above grade level.

(2) Maximum area and height. Wall signs shall not be higher than the eave line of the principal building. The sign shall comply with the height and area requirements established in Section 12-20-110 below.

(3) Projection from wall. No sign part, including cut-out letters, may project from the surface upon which it is attached more than required for construction purposes, and in no case more than twelve (12) inches.

(4) Design. Wall signs shall identify the individual business, building or building complex by name or trademark only.

(j) Window signs. A window sign is a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way, placed at or below the second-floor level.

(1) Maximum area. When a sign is displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed:

- a. Twenty-five percent (25%) of the window or door area at the ground-floor level; and
- b. Twenty-five percent (25%) of the total allowable sign area for the premises.

(2) Lighting. All illuminated window signs shall be included in the total allowable sign area for the premises. Temporary posters announcing or advertising events sponsored by noncommercial organizations shall be exempt from limitations for window signs. (Ord. 789 §18-570, 2006)

Sec. 12-20-110. Sign standards by zone district.

(a) Residential signs. Signs in the RU, RE, RL, RM, RH, Mfg-H and MSW Districts, listed in Table 12-22 below, may include and shall be limited to:

**Table 12-22
Residential Sign Standards**

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification Signs (Freestanding, Monument or Wall Sign)	1 per one-unit dwelling or manufactured home single-wide	2	4 ft.	Wall signs may be no higher than the eave line of the principal building or the first-floor eave line of a multi-story building.
	1 per multi-unit dwelling	16	6 ft.	Wall signs may be no higher than the eave line of the principal building or the first-floor eave line of a multi-story building.
	1 per public or quasi-public use	20	8 ft.	Wall signs may be no higher than the eave line of the principal building or the first-floor eave line of a multi-story building.
	1 per subdivision entrance (monument sign)	32 per face	6 ft.	Direct illumination only; when placed on subdivision entry features, only the sign face shall be used to calculate the area.
Bed and Breakfast	1 per street frontage	16	Below edge of roof, 4 ft. freestanding	May be lighted; name and address of facility only.
Child Care Center	1	6	5 ft.	Unlighted.
Home Occupation	1	6 per face	5 ft.	Indirect illumination dusk to 10:00 p.m.
Temporary Sign	See Section 12-20-40 Sign Exemptions			

(b) Commercial Business signs. Signs in the CB District, listed in Table 12-23 below, may include and shall be limited to:

**Table 12-23
CB District Sign Standards**

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification Signs (Freestanding, Monument, Wall, Window, Awning, Canopy, Projecting or Standard Brand-Name Signs)	Freestanding	24 per face	Maximum of eave line height or first-story eave line height of a multi-story building	No freestanding sign shall be built or placed on the sidewalk, curb or area between the sidewalk and curb except for exempt signs.
	Arterial street pole sign: 1 for every 1,500 ft. of street frontage	24 per face	Maximum of eave line height or first-story eave line height of a multi-story building	In place of project monument sign; not allowed on local or collector streets.
	Wall sign or Projecting sign: 1 per individual building tenant	3 sq. ft. per linear foot of building façade not to exceed 150 sq. ft.	N/A	The sum of all wall signs on a given wall shall not exceed 5% of the wall area. Projecting signs shall be mounted so that they generally align with others on the block and have a minimum clearance of 8'.
	Canopy or awning sign: 1 per individual building tenant	10 if main business sign; 4 if an auxiliary business sign	Minimum 8 ft. above finished grade	May not be in addition to a wall sign; auxiliary on valance only.
	Information signs	5	6 ft.	Permitted at rear and loading door entrances.
Time and/or Temperature signs	See Section 12-20-40 Sign Exemptions			
Temporary Signs	See Section 12-20-40 Sign Exemptions			

(c) Commercial Highway and Industrial District signs. Signs in the CH and I Districts, listed in Table 12-23 below, may include and shall be limited to:

**Table 12-24
CH and I District Sign Standards**

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification Signs (Freestanding, Monument, Wall, Window, Awning, Canopy, Projecting, Off-Premises or Standard Brand-Name Signs)	Wall sign or projecting sign: 1 per individual tenant building frontage	1 square foot for the first 100 lineal feet of building frontage plus 1 square foot for each 2 lineal feet of building frontage up to 200 square feet maximum	Maximum of eave line height or first-story eave line height of a multi-story building	The sum of all wall signs on a given wall shall not exceed 5% of the wall area; cannot be 25 ft. above grade level or higher than the eave line of the principal building
	Canopy or awning sign: 1 per individual building tenant	10 if main business sign; 4 if an auxiliary business sign	Minimum 8 ft. above finished grade	May not be in addition to a wall sign; auxiliary on valance only
	Information signs	5	6 ft.	Permitted at rear and loading door entrances
	Pole signs adjacent to Interstate or State Highway: Off-premises signs limited to 2	1 every 1,500 ft. of frontage up to 200 square feet; 4 if off-premises sign	Maximum of eave line height or first-story eave line of multi-story building; off-premises sign maximum of 12 ft.	Permitted along with entry monument sign; can be no closer than 150 ft. from each other
Time and/or Temperature signs	See Section 12-20-40 Sign Exemptions			
Temporary Signs	See Section 12-20-40 Sign Exemptions			

(Ord. 789 §18-571, 2006)

ARTICLE 21

Adult-Oriented Businesses

Sec. 12-21-10. Restricted locations.

(a) It shall be unlawful to operate or cause to be operated an adult-oriented business in any location other than a District, as defined in Article 5 of this Chapter. An adult-oriented business shall be deemed to be a special review use and shall require approval under Article 5 of this Chapter.

(b) It shall be unlawful to operate or cause to be operated an adult-oriented business within seven hundred fifty (750) feet of a church, school, childcare or day care home or facility, dormitory, health services center or hospital, public park or residential property. For the purposes of this Section, the distance between an adult-oriented business and church, school, day care facility, dormitory, health services center or hospital, public park or residential property shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure in which the adult-oriented business is conducted to the nearest property line of the premises in which a church, school, day care facility, dormitory, health services center or hospital, public park or residentially zoned property is located.

(c) It shall be unlawful to operate or cause to be operated an adult-oriented business within seven hundred fifty (750) feet of another adult-oriented business. The distance between any two (2) such businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior walls of the structures in which the adult-oriented businesses are located.

(d) It shall be unlawful to operate or cause to be operated more than one (1) adult-oriented business in the same facility or portion thereof.

(e) This Section shall not apply to private rooms within an adult-oriented motel or hotel. (Ord. 789 §18-394, 2006; Ord. 811 §1, 2009)

Sec. 12-21-20. Restricted hours of operation.

It shall be unlawful for an adult-oriented business to be open for business, or for a licensee to allow patrons on the premises, from 2:00 a.m. to 12:00 p.m. of any day. (Ord. 789 §18-394, 2006)

Sec. 12-21-30. Minimum age limitations.

All minors, being persons under eighteen (18) years of age, shall be prohibited admission to an adult-oriented business; provided, however, that this prohibition shall not apply to the non-adult business portion of a business' premises if the interior of the adult-business portion of the premises is not visible from the non-adult-business portion of the premises and access is restricted and regulated so as to bar entrance by minors. It shall be unlawful for either a licensee or minor to violate this provision. (Ord. 789 §18-394, 2006)

Sec. 12-21-40. Signs.

(a) Notwithstanding any other ordinance, code or regulation to the contrary, it shall be unlawful for the operator of any adult-oriented business or any other person to erect, construct or maintain any sign for the adult-oriented business, except as in conformity with Article 20 of this Chapter, as well as the provisions of this Article.

(b) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may only contain on the sign the name of the establishment.

(c) Each letter forming a word on a sign shall be of solid color, and each such letter shall be the same print type, size and color. The display surface of a primary sign shall be of a uniform and solid color. (Ord. 789 §18-394, 2006)

Sec. 12-21-50. License; applications.

(a) It shall be unlawful and a violation of this Section to operate an adult-oriented business without having been first granted an adult-oriented business license by the City.

(b) Any person desiring to operate an adult-oriented business shall file with the City Manager a sworn license application on standard application forms supplied by the City Manager.

(c) The completed application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, the individual shall state his or her legal name and any aliases and submit satisfactory proof that he or she is at least twenty-one (21) years of age;

b. A partnership, the partnership shall state its complete name and the name of all partners, whether the partnership is general or limited, the name and address of at least one (1) person in the State who is authorized to accept service of process, and a copy of the partnership agreement; or

c. A corporation, the corporation shall state its complete name, state the date of its incorporation and evidence that the corporation is in good standing, provide a copy of the articles of incorporation and by-laws, and state the name and capacity of all officers and directors, the name of the registered corporate agent, the address of the registered office for service of process and the name and title or capacity of the person who makes the application on behalf of the corporation.

(2) Whether the applicant or any of the other individuals listed, pursuant to Subsection (a) above, has, within the five-year period immediately preceding the date of the application, been convicted of a criminal act and, if so, the criminal act involved, the date of conviction and the place of conviction.

(3) Whether the applicant or any of the other individuals listed, pursuant to Subsection (a) above, has had a previous license under this Code suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed, pursuant to Subsection (a) has been a partner in a partnership or an officer or director of a corporation whose license under this Section has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation.

(4) Whether the applicant or any other individuals listed, pursuant to Subsection (a) above, holds any other licenses under this Article and, if so, the names and locations of such other licensed establishments.

(5) The location of the proposed establishment including a legal description and the legal street address of the property site.

(6) The name of each person who has the right or authority to manage or control the day-to-day operation of the proposed establishment and such person's business address and business telephone number; or, if the person is a corporation, the same information shall be provided for its officers and directors.

(7) The applicant's mailing address and business telephone number.

(d) Each application shall be accompanied by a nonrefundable filing fee, subject to adjustment from time to time by resolution of the City Council. A copy of the fee schedule is available in the City Clerk's office. Such application fee shall be used to defray the costs and expenses incurred by the various departments in reviewing the application.

(e) By applying for a license under this Article, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise by the City Manager and the departments of their respective responsibilities under this Section.

(f) Upon receipt of an application properly filed with the City Manager under this Article and upon payment of the nonrefundable application fee, the City Manager shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Chief of Police.

(g) The Chief of Police shall promptly conduct an investigation of the application in accordance with this Article.

(h) At the conclusion of his or her investigation, the Chief of Police shall prepare a report or memorandum and forward such report or memorandum to the City Manager no later than thirty (30) days from the date of the proper filing of the application with the City Manager, and shall state therein whether the department finds that false, incorrect or incomplete information was provided on the application.

(i) The Planning and Zoning Commission shall recommend granting or denying an application for a license under this Article within forty (40) days from the date of its proper filing, and shall notify the applicant within seven (7) days of the recommendation granting or denying of the application. The application will be processed pursuant to procedures for special review uses in Article 5 of this Chapter, and the Planning and Zoning Commission will transmit its recommendation within ten (10) days of its decision to the City Council for action in granting or denying the application. The City Council will grant or deny the application within thirty (30) days of receipt of the Planning and Zoning Commission's recommendation unless a longer time is mutually agreed for amendments to the application.

(j) Notwithstanding the granting of an adult-oriented business license, nothing in this Article exempts or excuses the licensee or applicant from having to obtain any other required permits, licenses or certificates needed to lawfully operate a business including a land use permit, site permit, building permit, occupational license or certificate of occupancy.

(k) The Planning and Zoning Commission shall review the findings reported by the Chief of Police and recommend denial of the application for any of the following reasons:

(1) The application is incomplete or contains incorrect or false information.

(2) The applicant or any of the other individuals listed has a license under this Article, which is under suspension, or is an officer or director of a corporation, which has a license under suspension.

(3) The applicant or any of the other individuals listed had a license under this Article that was revoked during the previous two (2) years, or was an officer or director of a corporation which had a license under this Article that was revoked during the previous two (2) years.

(4) A license under this Section at the location of the proposed establishment is the subject of a pending suspension proceeding or is under suspension.

(5) A license under this Section at the location of the proposed establishment is the subject of a pending revocation proceeding or has been revoked during the previous two (2) years.

(6) The granting of the application would violate a statute, code or ordinance, or an order from a court of law that effectively prohibits the applicant from obtaining an adult-oriented business license.

(l) An adult-oriented business license shall state the name of the licensee, the name of the owner of the real property, the name of the establishment, the street address of the establishment, the classification of the license, the date of issuance and the date of expiration. (Ord. 789 §18-394, 2006; Ord. 811 §1, 2009)

Sec. 12-21-55. Medical marijuana businesses.

The use of property as a medical marijuana center, optional premises cultivation operation or a facility for which a medical marijuana-infused products manufacturer's license could otherwise be obtained within the City are all uses prohibited in any zoning district. (Ord. 822 §A, 2011)

Sec. 12-21-60. Violations and penalties.

Violation of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. Each day of continued violation for unlawfully conducting an adult-oriented business shall be considered a separate offense. In the event of prosecution of a violation of this provision as a municipal code violation, conviction of a licensee for a violation under this provision may be grounds for revocation or nonrenewal of a license issued hereunder. Nothing contained in this Section shall be construed as negating or limiting the authority of the City from pursuing injunctive relief, restraining orders or similar or additional civil or criminal remedies in a court of competent jurisdiction. (Ord. 789 §18-394, 2006; Ord. 811 §1, 2009)

ARTICLE 22

Flood Prevention and Protection

Division 1 General Provisions

Sec. 12-22-1. Statutory authorization.

The Legislature of the State has in Section 20-29-104, C.R.S., delegated the responsibility to local governmental units for adopting regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows in Section 12-22-2 through 12-22-4 below. (Ord. 832, 2011)

Sec. 12-22-2. Findings of fact.

(a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage. (Ord. 832, 2011)

Sec. 12-22-3. 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 in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area. (Ord. 832, 2011)

Sec. 12-22-4. Methods for reducing flood losses.

In order to accomplish its purposes, this Article uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. 832, 2011)

Sec. 12-22-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Appeal means a request for a review of the City Manager's interpretation of any provision of this Article or a request for a variance.

Area of special flood hazard means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Basement means any area of building having its floor sub-grade (below ground level) on all sides.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing manufactured home park or subdivision means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before February 18, 1989.

Expansion to an existing manufactured home park or manufactured home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

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.

Floodway (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 cumulatively increasing the water surface elevation more than a designated height.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Manufactured home park or subdivision means a parcel (or contiguous parcels) 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 commenced on or after February 18, 1989.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after February 18, 1989.

Recreation vehicle means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Start of construction shall include *substantial improvement* and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The *actual start* means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and tilling, the installation of streets and/or walkways, excavation for a basement, footings, piers or foundations or the erection of temporary forms, or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building or manufactured home that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, addition 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 the State Inventory of Historic Places.

Variance 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.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Paragraph 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such times as that documentation is provided. (Prior code 8-1; Ord. 811 §1, 2009; Ord. 832, 2011)

Sec. 12-22-20. Application of Article.

This Article shall apply to all areas of special flood hazards within the jurisdiction of the City. (Prior code 8-2)

Sec. 12-22-30. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Rio Grande County, Colorado, and Incorporated Areas," dated September 2, 2011, with an accompanying Flood Insurance Rate Map, dated September 2, 2011, and any revisions thereto are hereby adopted by reference and declared to be a part of this Article. The flood insurance study is on file at the City Hall. (Prior code 8-3; Ord. 832, 2011)

Sec. 12-22-40. Compliance.

No structure or land shall be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. (Prior code 8-4)

Sec. 12-22-50. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Prior code 8-5)

Sec. 12-22-60. Interpretation.

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (3) Liberally construed in favor of the City Council. (Prior code 8-6)

Sec. 12-22-70. 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 manmade or natural causes. This Article does not imply that land outside the areas of special 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, 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. (Prior code 8-7)

Sec. 12-22-80. Severability.

This Article and the various parts thereof are hereby declared to be severable. Should any Section of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the

validity of the Article as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid. (Ord. 832, 2011)

*Division 2
Administration*

Sec. 12-22-110. Establishment of permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 12-22-30 of this Article. Application for a development permit shall be made on forms furnished by the City Manager and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed.
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 12-22-260 of this Article.
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. (Prior code 8-36)

Sec. 12-22-120. Designation of administrator.

The City Manager is hereby appointed to administer and implement this Article by granting or denying building permit applications in accordance with its provisions. (Prior code 8-37)

Sec. 12-22-130. Duties and responsibilities of administrator.

The duties of the City Manager shall include, but not be limited to:

- (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 those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this Article, *adversely affects* means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point.

(4) When base flood elevation data has not been provided in accordance with Section 12-22-30 of this Article, obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring new construction, substantial improvements or other development in Zone A in order to administer the provisions of Section 12-22-260 of this Article.

(5) 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.

(6) For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed; and

b. Maintain the floodproofing certifications required in Section 12-22-260 of this Article.

(7) Maintain for public inspection all records pertaining to the provisions of this Article.

(8) Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(9) 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 interpretation as provided in Section 12-22-140 below.

(10) Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.

(11) Under the provisions of 44 C.F.R. Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE and AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1) foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision). (Prior code 8-38; Ord. 811 §1, 2009; Ord. 832, 2011)

Sec. 12-22-140. Variance; procedure.

(a) The Board of Adjustment, as established by the City, shall hear and decide appeals and requests for variances from the requirements of this Article. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the City Manager in the enforcement or administration of this Article. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the District Court of the County, as approved in Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(b) In passing upon such requests, the Board of Adjustment shall consider technical evaluations, standards specified in other sections of this Chapter and:

(1) The danger that materials may be swept onto other lands to the injury of others.

- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity to the facility of a waterfront location, where applicable.
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (11) 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.

(c) Upon consideration of the above factors, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(d) The City Manager shall maintain records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Prior code 8-39)

Sec. 12-22-150. Conditions of variances.

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that items in Paragraphs 12-22-140(b)(1) through (11) above have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

(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.

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Subsection 12-22-140(b) above, or conflict with existing local laws or ordinances.

(f) 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 the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Prior code 8-40; Ord. 811 §1, 2009)

Division 3
Flood Hazard Reduction

Sec. 12-22-210. Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and to be capable of resisting the hydrostatic and hydrodynamic loads.

(b) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of the over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

(1) Over-the-top ties to be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring only one (1) additional tie per side.

(2) Frame ties to be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.

(3) All components of the anchoring system to be capable of carrying a force of four thousand eight hundred (4,800) pounds.

(4) Any additions to the manufactured homes to be similarly anchored. (Prior code 8-61)

Sec. 12-22-220. Construction materials and methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) All new construction and substantial improvements shall be constructed with 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. (Prior code 8-62)

Sec. 12-22-230. Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the system into floodwaters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Prior code 8-63)

Sec. 12-22-240. Subdivision proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) 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. (Prior code 8-64)

Sec. 12-22-250. Encroachments.

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point. (Prior code 8-65)

Sec. 12-22-260. Specific standards for flood hazard reduction.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 12-22-30 or Paragraph 12-22-130(4) of this Article, the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) 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 the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Paragraph (2). Such certifications shall be provided to the official as set forth in Paragraph 12-22-110(6) of this Article.

(3) Manufactured homes.

a. Manufactured homes shall be anchored in accordance with Section 12-22-210 of this Article.

b. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system. This Paragraph (3) applies to manufactured homes to be placed or substantially improved in an expansion to an existing manufactured home park or subdivision. This Paragraph (3) does not apply to manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision except where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced.

1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level.

2. Adequate surface draining and access for a hauler are provided.

3. In the instance of elevation on pilings:

a) Lots are large enough to permit steps,

b) Piling foundations are placed in stable soil no more than ten (10) feet apart; and

c) Reinforcement is provided for pilings more than six (6) feet above the ground level.
(Prior code 8-66)

Sec. 12-22-270. Below-grade residential crawlspace construction.

New construction and substantial improvement of any below-grade crawlspace shall:

- (1) Have the interior-grade elevation that is below base-flood elevation no lower than two (2) feet below the lowest adjacent grade.
- (2) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four (4) feet at any point.
- (3) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood.
- (4) Be anchored to prevent flotation, collapse or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads.
- (5) Be constructed with materials and utility equipment resistant to flood damage.
- (6) Be constructed using methods and practices that minimize flood damage.
- (7) Be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Prior code 8-67; Ord. 832, 2011)

Sec. 12-22-280. Enclosures.

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 meet or exceed the following minimum criteria:

- a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
- b. The bottom of all openings shall be no higher than one (1) foot above grade; and
- c. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. (Prior code 8-67; Ord. 832, 2011)

Sec. 12-22-290. Recreational vehicles.

Require that recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM either:

- (1) Be on the site for fewer than one hundred eighty (180) consecutive days;
- (2) Be fully licensed and ready for highway use; or

(3) Meet the permit requirements of this and the elevation and anchoring requirements for manufactured homes in Section 12-22-210 of this Article. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions. (Ord. 832, 2011)

CHAPTER 13

Subdivisions

Article 1	Definitions	
	Sec. 13-1-10	Definitions
Article 2	In General	
	Sec. 13-2-10	Title
	Sec. 13-2-20	Rules of construction of language
	Sec. 13-2-30	Authority
	Sec. 13-2-40	Purpose
	Sec. 13-2-50	Interpretation
	Sec. 13-2-60	Jurisdiction
	Sec. 13-2-70	Amendments or additions
	Sec. 13-2-80	Effective date
Article 3	Administration	
	Sec. 13-3-10	Review process; generally
	Sec. 13-3-20	Variance
	Sec. 13-3-30	Control over platting
	Sec. 13-3-40	Application of regulations to subdivision
	Sec. 13-3-50	Minor subdivision
	Sec. 13-3-60	Vested property rights
	Sec. 13-3-70	Public hearing notices; generally
Article 4	Plat Requirements and Procedures	
	<i>Division 1</i>	<i>Sketch Plan</i>
	Sec. 13-4-10	Preapplication conference
	Sec. 13-4-20	Copies submitted
	Sec. 13-4-30	Review process
	Sec. 13-4-40	Contents
	<i>Division 2</i>	<i>Preliminary Plat</i>
	Sec. 13-4-110	Generally
	Sec. 13-4-120	Filing fee
	Sec. 13-4-130	Copies submitted
	Sec. 13-4-140	Review process
	Sec. 13-4-150	Public hearing
	Sec. 13-4-160	Planning and Zoning Commission action
	Sec. 13-4-170	Time limitations for preliminary plat
	Sec. 13-4-180	Contents
	Sec. 13-4-190	Supplementary information
	<i>Division 3</i>	<i>Final Plat</i>
	Sec. 13-4-310	Generally
	Sec. 13-4-320	Filing
	Sec. 13-4-330	Planning and Zoning Commission review
	Sec. 13-4-340	City Council resolution
	Sec. 13-4-350	Recording
	Sec. 13-4-360	Contents
	Sec. 13-4-370	Supplementary information for public improvements
	Sec. 13-4-380	Time limitations

Article 5 Design Standards

- Sec. 13-5-10 General requirements
- Sec. 13-5-20 Alleys
- Sec. 13-5-30 Easements
- Sec. 13-5-40 Blocks
- Sec. 13-5-50 Lots
- Sec. 13-5-60 Streets
- Sec. 13-5-70 Public sites and open spaces
- Sec. 13-5-80 Acceptance of public lands
- Sec. 13-5-90 Street trees

Article 6 Improvements

- Sec. 13-6-10 General responsibility of subdividers, developers and contractors
- Sec. 13-6-20 Plan preparation
- Sec. 13-6-30 Guarantee of completion of public improvements
- Sec. 13-6-40 Monuments
- Sec. 13-6-50 Street improvements
- Sec. 13-6-60 Water system
- Sec. 13-6-70 Sanitary sewer system
- Sec. 13-6-80 Storm drainage
- Sec. 13-6-90 Electric, gas, telephone and cable service
- Sec. 13-6-100 Warranty term and final acceptance of public improvements
- Sec. 13-6-110 Building permits
- Sec. 13-6-120 Other improvements

ARTICLE 1

Definitions

Sec. 13-1-10. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Applicant means any subdivider or developer of land, as defined in this Section.

Block means a parcel of land intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or open spaces, rural land, drainage channels or a combination thereof.

City Clerk means the Monte Vista City Clerk.

City Manager means the Monte Vista City Manager or his or her designee.

Dedication means the setting aside by the subdivider of land within the subdivision for a public purpose pursuant to the terms and conditions of the site-specific development plan.

Developer's agreement means an agreement between the developer or subdivider and the City concerning timetables, responsibilities including the subdivision regulations and modifications, and indicating security for infrastructure improvements.

Disposition means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one (1) of the foregoing.

Easement means authorization of a property owner for the use by the public, a corporation or person of any designated part of his or her property for specific purposes.

Engineer or licensed professional engineer means a person licensed as a professional engineer by the State.

Evidence means any map, table, chart, contract or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained by the subdivider.

Infrastructure improvements plan means engineered drawings to include a utility plan, grading plan, general construction notes, plans and profiles for streets, water, sanitary sewer and storm drain systems for the entire subdivision, including parks and open space.

Lot means a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development. Such lot shall have frontage on an improved public street or on an approved private street, and may consist of the following; provided that, in no case of division or combination, shall any residual lot or parcel be created which does not meet the requirement of this Chapter:

- a. A single lot of record.
- b. A portion of a lot of record.
- c. A combination of complete lots of record; complete lots of record and portions of lots of record; or portions of lots of record.
- d. A parcel of land described by metes and bounds.

Lot, corner means a lot located at the intersection of and abutting two (2) or more streets.

Lot, double frontage means a lot which runs through a block from street to street and which has two (2) nonintersecting sides abutting on two (2) or more streets.

Lot of record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk and Recorder, or a parcel of land, the deed for which was recorded in the office of the County Clerk and Recorder prior to passage of this Chapter.

Major street plan means the plan which has been officially adopted for the City showing the Planning and Zoning Commission's recommendations for circulation for the territory within the subdivision control of the City.

Master plan means the Monte Vista Plan Element of the Rio Grande County Joint Master Plan which has been officially adopted for the City which includes, among other things, the plan for land use, circulation and public facilities.

Municipality or *municipal* means cities, towns, villages and other incorporated political subdivisions but does not include incorporated improvements districts formed for special classes of improvements.

Planning and Zoning Commission means the officially appointed Planning and Zoning Commission of the City.

Plat, final means a plat map of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

Plat, preliminary means the maps of a proposed subdivision and specified supplemental information, drawn and submitted in accordance with the requirements of adopted regulations, to permit the evaluation of the proposal prior to detailed engineering and design.

Public improvements includes streets and alleys, curbs and gutters, sewer, water and storm drain systems, parks and open spaces and other public infrastructure.

Public improvements guarantee means a document to secure performance by the developer, subdivider or contractor; i.e., bond, letter of credit or other means approved by the City Council.

Reservation means the setting aside by the subdivider of land within the subdivision for a public purpose pursuant to the terms and conditions of the site-specific development plan. *Reservation* does

not import acceptance by the City of any land or improvements thereon which has been set aside for a public purpose.

Site-specific development plan means a collection of documents, to include a final plat, developer's agreement, infrastructure improvements plan, public improvements guarantee, warranty acceptance and other information required by the Planning and Zoning Commission and the procedures enacted under Article 4, Division 3 of this Chapter, together with any appended documents described under Section 13-3-60 of this Chapter, unless another definition is otherwise agreed upon in writing between the City and the applicant or developer.

Sketch plan means map of a proposed subdivision, drawn and submitted in accordance with the requirements of these regulations, to evaluate feasibility and design characteristics at an early stage in the planning.

Street tree means a tree located, as required by the Planning and Zoning Commission, along public streets.

Streets and alleys means:

a. *Streets* means public ways for vehicular traffic, however designated, which includes the entire width between the boundary lines of such public way. The term *street* includes, but is not limited to, streets, avenues, boulevards, roads, lanes, circles, courts, drives, parkways and other ways.

b. *Arterial* means a right-of-way serving major traffic movements which is designed primarily as a traffic carrier between cities or between various sections of the City, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.

c. *Collector* means a right-of-way which collects traffic from local streets and serves as the most direct route to an arterial.

d. *Local* means a right-of-way, the primary purpose of which is to provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged.

e. *Cul-de-sac* means a street having one (1) end open to vehicle traffic and having one (1) end closed and terminated by a turnaround.

f. *Frontage* means a local street auxiliary to and located on the side of a collector or arterial for providing and controlling access to abutting properties and adjacent areas.

g. *Alley* means a right-of-way dedicated to public use, which gives a secondary means of vehicular access to the backs or sides of properties otherwise abutting a street and which may be used for public utility purposes.

Subdivider or *developer* means any person who shall participate as owner, promoter, developer, applicant or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision means the division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided.

Subdivision improvements guarantee means one (1) or more security arrangements which may be accepted by the City to secure the construction of such public improvements as are required by these regulations within the subdivision and shall include collateral such as but not limited to performance or property bonds, private or public escrow agreements, loan commitments, assignments of receivables, liens on property, deposit of certified funds, letter of credit or similar surety agreements.

Variance means a minimum easing of the terms of this Chapter, where such easing will not be contrary to the public interest or to the interest and purposes of this Chapter and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Chapter would result in unnecessary and undue hardship, and the condition or situation is not of so general or recurrent a nature as to make reasonable and practical the formulation of an amendment containing a general regulation for such condition or situation.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of the site-specific development plan.

Warranty and acceptance form means a document stating the date of warranty period (1 year), start date, stop date and extensions. The final acceptance date indicates that the City has accepted designated public improvements. The form is signed by the Mayor and recorded with the County Clerk. (Ord. 710, 1998; Ord. 723, 1999; Ord. 776 §15-171, 2005; Ord. 811 §1, 2009)

ARTICLE 2

In General

Sec. 13-2-10. Title.

This Chapter shall be cited as the Subdivision Ordinance of the City of Monte Vista. (Ord. 776 §15-1, 2005)

Sec. 13-2-20. Rules of construction of language.

- (a) The particular controls the general.
- (b) In case of any difference of meaning or implication between the text of these regulations and the captions for each section, the text shall control.
- (c) The word *shall* is always mandatory and not directory. The word *may* is permissive. (Ord. 776 §15-2, 2005)

Sec. 13-2-30. Authority.

The City subdivision regulations are designed and enacted in accordance with Section 31-23-101, et seq., C.R.S., and are hereby declared to be in accordance with all provisions of those statutes. No final part of a subdivision shall be approved and accepted by the City Council unless it conforms to the provisions of this Chapter and meets or exceeds City standard construction specifications. (Ord. 710, 1998; Ord. 776 §15-3, 2005)

Sec. 13-2-40. Purpose.

This Chapter is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the City by:

- (1) Encouraging the proper arrangement of streets in relation to existing or planned streets and to the Master Plan.
- (2) Providing for adequate and convenient open spaces for traffic, utilities, access of firefighting equipment, civil defense, recreation, sites for school and educational facilities and related structures, light and air.
- (3) Avoiding congested population, including minimum area and width of lot.
- (4) Promoting good civic design.
- (5) Relating such other matters as the Planning and Zoning Commission and the City Council may deem necessary in order to protect the best interests of the public. (Ord. 776 §15-4, 2005)

Sec. 13-2-50. Interpretation.

In the interpretation and application of the provisions of these regulations, the following criteria shall govern:

- (1) Whenever both a provision of this Chapter and any other provisions of this Chapter or any provision in any other law, ordinance, resolution, rule, statute or regulation of any kind contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards of requirement shall govern.
- (2) This Chapter is not intended to abrogate or annul any plat, easements, covenants or permits recorded or issued before the effective date of the initial ordinance codified in this Chapter. (Ord. 776 §15-5, 2005)

Sec. 13-2-60. Jurisdiction.

(a) The territorial jurisdiction of this Chapter shall include all of the incorporated land located within the City and land in the process of annexation.

(b) This Chapter shall apply without qualification to all of the incorporated land lying within the City and land in the process of annexation, but land lying within three (3) miles of the corporate limits of the City and not located in any other municipality and nonmunicipal land lying within five (5) miles of more

than one (1) municipality shall be subject to this Chapter only for the purposes of attaining conformance with the major street plan. (Ord. 776 §15-6, 2005)

Sec. 13-2-70. Amendments or additions.

After study and recommendation by the Planning and Zoning Commission, these regulations may be amended and sections added thereto by ordinance of the City Council. (Ord. 776 §15-7, 2005)

Sec. 13-2-80. Effective date.

These regulations shall be in effect from the date of adoption by the Planning and Zoning Commission and the City Council pursuant to local provisions and procedures as required by the statutes of the State. The City Council finds, determines and declares that this Chapter is necessary for the immediate preservation of the public health, peace and safety of the City and that the initial ordinance codified in this Chapter shall take effect immediately upon final approval by the City Council, after final adoption, after public hearing. (Ord. 776 §15-8, 2005; Ord. 811 §1, 2009)

ARTICLE 3

Administration

Sec. 13-3-10. Review process; generally.

(a) The following chart establishes the required review steps applicable to different forms of approval which may be requested. Applicants should refer to Table 13-1 below to determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of Table 13-1 applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of this Chapter under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.

**Table 13-1
Review Process**

<i>Approval Requested</i>	<i>Staff</i>	<i>P & Z</i>	<i>CC</i>
Minor Subdivision	A	H	M
Sketch Plat	A	M	
Preliminary Plat	A	H	M
Final Plat		M	M
Variance	A		M
Vested Property Right		H	M

Key: P & Z Planning & Zoning Commission
CC City Council
A Application Required

H Hearing Required
M Meeting Required

(b) In the event that the Planning and Zoning Commission or City department with jurisdiction under this Section recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event that the review stage is before the City Council, the application may not be further processed following a denial. If, in the opinion of the City Manager, a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until deemed complete. (Ord. 776 §15-35, 2005; Ord. 797, 2007)

Sec. 13-3-20. Variance.

(a) Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Chapter would result in extraordinary hardships to the applicant because of unusual topography, or other such non-self-inflicted condition, or that these conditions would result in inhibiting the achievement of the objectives of this Chapter, the City Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided that any such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Chapter.

(b) In no case shall any variation, modification or waiver be more than a minimum easing of the requirements and in no instance shall it be in conflict with any existing zoning regulation.

(c) Such variances, modifications and waivers may be granted only by the affirmative vote of four (4) of the members of the City Council and only after the City Council has received and duly considered the recommendation of the Planning and Zoning Commission concerning such variance.

(d) In granting variances, modifications and waivers, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so affected. The applicant requesting a variance shall be notified by the City Council of its decision within ninety (90) days of receipt of written request for such variance. (Ord. 710, 1998; Ord. 776 §15-36, 2005)

Sec. 13-3-30. Control over platting.

(a) All subdivision plats of land laid out in blocks of building lots and the parks, open space, streets, alleys, easements or other portions of the same intended to be dedicated to a public use, shall be submitted to the Planning and Zoning Commission for approval before they are recorded. Acceptance of such proposed dedication to the public shall be given by action of the City Council.

(b) Acceptance of the parks, open space, streets, alleys, easements or other portions of the same intended to be dedicated to the City does not constitute acceptance for maintenance by the City. Until such dedications meet City standards and are approved by the City Council in a site-specific development plan, the maintenance, construction and all other matters pertaining to or affecting said dedications are the sole responsibility of the owners of the land embraced within this subdivision, until the warranty acceptance form has been approved by the City Council, signed by the Mayor and recorded with the County Clerk and Recorder.

(c) In any territory for which the Planning and Zoning Commission has adopted a major street plan, no building shall be erected, nor shall a building permit be issued therefor, unless the street giving access to the lot upon which such building is proposed to be placed has received the legal status of a public street prior to the adoption of such plan or corresponds with a street shown on the official master plan, with a street on a subdivision plat approved by the Planning and Zoning Commission, with a street on a street plat made and adopted by the Planning and Zoning Commission or with a street accepted by the City Council, after submission to the Planning and Zoning Commission, by favorable vote as required in Section 13-5-80 of this Chapter.

(d) Any building erected in violation of this Section shall be deemed an unlawful structure, and the Building Inspector or other appropriate official may cause it to be vacated or have it removed.

(e) The City Council shall withhold all public street improvements and public maintenance from all rights-of-way which have not been accepted for such purposes by the City Council.

(f) Any applicant or agent of an applicant who transfers, sells, agrees to sell or offers to sell any subdivided land before a final plat for subdivided land has been approved by the City Council and recorded in the office of the County Clerk and Recorder shall be guilty of an ordinance violation and shall be punished in accordance with the provisions of Section 1-4-20 of this Code for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected under this Section shall be credited to the General Fund of the City.

(1) The City Council shall have the power to bring an action to enjoin any applicant from selling, agreeing to sell or offering to sell subdivided land before a final plat for such subdivided land has been approved by the City Council.

(2) The description of such lot or parcel by metes and bounds in the instrument of transfer shall not exempt the transaction from such penalties or from the remedies provided in this Section.

(g) No changes, erasures, modifications or revisions shall be made in a final plat after approval of the plat has been given by the City Council, except for the corrections of typographical errors, with consent of the City Council.

(h) No subdivision shall be approved until such data, surveys, analysis, studies, plans and designs as required by these regulations have been submitted, reviewed and found to meet all sound planning and engineering requirements of the City contained in this Chapter.

(i) Every plat shall be recorded in the office of the County Clerk and Recorder. (Ord. 710, 1998; Ord. 776 §15-37, 2005; Ord. 811 §1, 2009)

Sec. 13-3-40. Application of regulations to subdivision.

(a) Unless the method of disposition is adopted for the purpose of evading this Chapter, these regulations shall not apply to any subdivision:

(1) Which creates parcels of land each of which comprise thirty-five (35) or more acres, none of which is intended for use by multiple owners.

(2) Which creates parcels of land such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest.

(3) Which is created by order of any court in the State or by operation of law or which could be created by any court in this State pursuant to the law of eminent domain.

(4) Which is created by a lien, mortgage, deed of trust or any other security instrument.

(5) Which is created by a security or unit of interest in any investment trust regulated under the laws of the State or any other interest in an investment entity.

(6) Which creates cemetery lots.

(7) Which creates interests in oil, gas, minerals or water which are now or hereafter severed from the surface ownership of real property.

(8) Which is created by the acquisition of interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of these regulations as only one (1) interest.

(9) Which is created by any transfer of a part of another lot or parcel for the purpose of enlarging an existing lot or parcel that does not create an additional lot.

(b) Common, corporate, syndicated or other similar ownership which creates multiple building sites shall be subject to this Chapter.

(c) Any division of land which is not excepted but which is a division of land with a metes-and-bounds description shall constitute a subdivision of land and shall require compliance with this Chapter.

(d) No land shall be subdivided for any use where the City Council finds that the land has severe limitations for such use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, unfavorable load-bearing strength, slow permeability, erosion susceptibility, high groundwater table, inability of the subdivision to be served by City sewer and water or likely to be harmful to the health, safety, prosperity, esthetics and general welfare of the future residents or users of the proposed subdivision or of the City.

(1) The City Council, in applying the provisions of this Section, shall recite in writing the particular facts upon which it bases its conclusions that the land is not suitable for certain uses.

(2) The applicant shall have an opportunity to present evidence contesting such findings if he or she so desires. Thereafter, the City Council may affirm, modify or withdraw its determination that the land is not suitable for certain uses.

(e) For any such division, a plat shall be required to be approved by the City Council and shall be recorded in the office of the County Clerk and Recorder after such approval is granted. Said plat shall:

(1) Be developed in accordance with the design standards set forth in Article 5 of this Chapter.

(2) Indicate the boundaries of all tracts, lots, sites, plats or parcels included in the proposed subdivision.

(3) Accurately show all new and existing streets included in the subdivision.

(4) Clearly label all streets as either public or private.

(f) All public streets shall be dedicated to the City and notice given on the plat that the streets will not be accepted by the City for maintenance until such streets meet City street standards. (Ord. 707, 1997; Ord. 710, 1998; Ord. 776 §15-38, 2005; Ord. 811 §1, 2009)

Sec. 13-3-50. Minor subdivision.

(a) When any person desires to subdivide any lot or tract of land which is in the City into not more than three (3) lots not involving any new street or road or the extension of any municipal facilities and not adversely affecting the development of the remainder parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map, Chapter 12 of this Code or this Chapter, the applicant or his or her legal representative may file an application for such division of land with the City Manager and pay the required application fee. The application shall be accompanied by a sketch plan of the property, drawn to scale, showing the location of existing structures (if any), the location of existing and proposed roads and the location of City water, sewer and storm drains. The plan shall include the corners and boundaries of the land to be divided and the subdivided parcels, easements and rights-of-way (if any) and access roads.

(b) The Planning and Zoning Commission may recommend the City Council's approval of the application only if it finds:

(1) There have been no previous applications for minor subdivision of the land or parcels under consideration by the same or any previous owner of the property.

(2) The proposed subdivided lots will conform to lot size and all other requirements of Chapter 12 of this Code.

(3) All lots shall have access to a public road.

(4) All lots shall have access to City water and sewer.

(5) The proposed division of land shall not be created for the purpose of evading the provisions of this Chapter or Chapter 12 of this Code. If the proposed division of land is only a boundary line adjustment or "split off" of property between neighboring property owners which conveys a portion of a lot to an adjacent existing lot in conformity with Chapter 12 of this Code, it shall be presumed, absent a finding by the Planning and Zoning Commission to the contrary, that the division of land was not created for the purpose of evading subdivision regulations or Chapter 12 of this Code.

(c) The Planning and Zoning Commission shall hold a public hearing, prior to approving the application for division of land, in which case all property owners within three hundred (300) feet of the land proposed to be divided shall be given notification of the date, time and place of consideration of the proposed division before the Planning and Zoning Commission. Notice of the time or place of the public

hearing shall be sent by first-class mail, postage prepaid, with a certificate of mailing, to the applicant and owners of land within three hundred (300) feet of the platted land or project not less than twenty (20) days prior to the public hearing. Additionally, notice of the public hearing shall be published in the newspaper of general circulation within the City at least thirty (30) days prior to such hearing.

(d) If the Planning and Zoning Commission recommends approval, the applicant shall prepare three (3) copies of the Mylar plat prepared and approved by a state-licensed surveyor, which shall include a description of the present lot or parcels and detailed description of the lot or parcels into which the property is to be divided, including corners, distances, lot numbers (where applicable) and other surveying information, and which shall also contain the surveyor certificate and Planning and Zoning Commission approval required under Section 13-4-360, which plat shall be submitted to the City Manager. The Planning and Zoning Commission's recommendation will be referred to the City Council, and the City Manager will review the Mylar plat.

(e) If the City Council approves the Planning and Zoning Commission's recommendation and plat, the approval shall also be noted on the Mylar plat. The plat shall be filed for record with the County Clerk and Recorder. If the Planning and Zoning Commission does not approve the application as a minor subdivision, then the applicant will be required to proceed under the balance of the subdivision regulations if he or she desires to subdivide the property. (Ord. 776 §15-39, 2005; Ord. 811 §1, 2009)

Sec. 13-3-60. Vested property rights.

(a) Site-specific development plan. For all developments, the final approval step, irrespective of its title, which occurs prior to issuance of building permits, shall be considered the site-specific development plan for purposes of Title 24, Article 68, C.R.S. Such final approval step shall include the City Council's approval of a final plat and be designated by the City Council as a portion of the site-specific development plan for the purpose of creating a vested property right, together with an infrastructure improvements plan, subdivision improvements guarantee and any appended documents which are specifically approved by the City Council concerning such final plat for the purpose of creating such vested property rights. Such approvals may be effected after receiving the recommendation of the Planning and Zoning Commission in accordance with procedures in this Section. Said approval process includes the recorded approval of the final plat and any appended documents.

(b) Procedure. No site-specific development plan shall be approved until after a public hearing preceded by written notice of such hearing. Such notice may, at the City's option, be combined with any notices or hearings required by the subdivision regulations or zoning regulations of the City. At such hearing, interested persons shall have an opportunity to be heard. Such hearings shall be conducted before the Planning and Zoning Commission, which shall transmit its recommendation forthwith to the City Council for final approval or disapproval. Such approval may be transmitted at the same time of any recommendation of approval or disapproval of a final plat. Notice of the time or place of the public hearing shall be sent by first-class mail, postage prepaid, with a certificate of mailing, to the applicant and owners of land within three hundred (300) feet of the platted land or project not less than twenty (20) days prior to the public hearing. Additionally, notice of the public hearing shall be published in the newspaper of general circulation within the City at least fifteen (15) days prior to such hearing.

(c) Approval; effective dates; amendments. A site-specific development plan shall be deemed approved upon the effective date of the City Council's approval of the same (and any appended referenced documents). If amendments to a site-specific development plan are proposed and approved, the effective

date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site-specific development plan unless the City Council specifically finds to the contrary and incorporates such findings in its approval of the amendment.

(d) Notice of approval. Each map, plat, site plan or document constituting a site-specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Section 24-68-101, et seq., C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved and the specific parcels of property affected and stating that a vested property right has been created shall be prepared and published once by the applicant, approved by the City Manager, not more than fourteen (14) days after approval of the site-specific development plan, in a newspaper of general circulation within the City.

(e) Costs. In addition to any and all other fees and charges imposed by this Section, the applicant, for approval of the site-specific development plan, shall pay all costs occasioned to the City as a result of the site-specific development plan review, including publication notices, public hearing and engineering review costs at the time of recording.

(f) Revocation. The City Council may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the City Council shall provide a public hearing to the affected landowner and shall provide at least fifteen (15) days' prior written notice mailed to the property address of record in the County Assessor's office, as well as providing notice by publication. The mailed notice to the landowners shall specifically identify the terms and conditions which are not in compliance with the site-specific development plan approval. During the period of determining compliance with the terms and conditions of the site-specific development plan, the City may administratively withhold any building, utility, excavation, road cut or other City permit and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site-specific development plan.

(g) Other provisions unaffected. Approval of a site-specific development plan shall not constitute an exemption from or a waiver of any other provisions of the subdivision regulations or zoning ordinances of the City pertaining to the development and use of property.

(h) Applicable law. A pending site-specific development plan application will be governed by the newly adopted laws and regulations in effect at the time the application is submitted, with the exception that the City reserves the right, pursuant to Section 24-6-102.5(2), C.R.S., to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by ordinance for the purposes of preparing planning studies and considering land use regulations related to public health and safety or for the purpose of promoting concurrency of the essential public infrastructure, equipment or services with increased demand.

(i) Limitations. Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Title 24, Article 68, C.R.S. In the event of the repeal of said article or judicial determination that said article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective. (Ord. 776 §15-40, 2005; Ord. 811 §1, 2009)

Sec. 13-3-70. Public hearing notices; generally.

(a) Published notice. At least fifteen (15) days prior to any public hearing which requires published notice (see Table 2), the City Manager shall cause to be published in the legal section of a newspaper of general circulation within the City a notice of public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by both address and legal description.

(b) Posted notice. At least twenty-one (21) days prior to any public hearing which requires posted notice (see Table 13-2), the City Manager shall cause to be prepared, and the applicant shall post, a sign (one [1] per street frontage) upon the parcel under consideration which provides notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by both address and legal description. The signs shall be of a size and form prescribed by the City and shall consist of at least one (1) sign facing each adjacent public right-of-way. The fact that a parcel was not continuously posted the full period may not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.

(c) Mailed notice. At least twenty (20) days prior to any public hearing which requires notification by letter (see Table 2), the City Manager shall cause to be sent a letter to:

- (1) All property owners within three hundred (300) feet; and
- (2) Owners of property included within the application.

The letter shall include a vicinity map, a short narrative describing the application and an announcement of the date, time and location of the scheduled hearing. The letters shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.

Table 13-2
Public Hearing Notice Summary

<i>Approval Requested</i>	<i>Publish</i>		<i>Post</i>	<i>PO Distance/Mail</i>
	<i>P & Z</i>	<i>CC</i>		
Minor Subdivision	15 days			300 ft / 20 days
Preliminary Plat	15 days		21 days	300 ft / 20 days
Vested Property Right	15 days	No later than 14 days after approval		300 ft / 20 days

Key: P & Z Planning and Zoning Commission
CC City Council
PO Property Owner

(Ord. 776 §15-41, 2005; Ord. 811 §1, 2009)

ARTICLE 4

Plat Requirements and Procedures

Division 1 Sketch Plan

Sec. 13-4-10. Preapplication conference.

Prior to preparing a sketch plat for presentation to the Planning and Zoning Commission, the applicant shall make known his or her intentions to the City Manager and discuss informally any City plans or standards that would affect the proposed development. (Ord. 710, 1998; Ord. 776 §15-61, 2005; Ord. 811 §1, 2009)

Sec. 13-4-20. Copies submitted.

Ten (10) copies, unless additional or fewer copies are requested by the City Manager, of the sketch plan contents shall be organized into packet form with one (1) copy of each required item included in each packet, and such packets shall be presented by the applicant to the City Manager at least thirty (30) days prior to a regular Planning and Zoning Commission meeting. (Ord. 776 §15-62, 2005)

Sec. 13-4-30. Review process.

The City Manager shall review the sketch plan and turn all sketch plan materials over to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the sketch plan and shall offer its comments and suggestions regarding the plan within fifteen (15) days after receipt of the sketch plan materials from the City Manager. (Ord. 776 §15-63, 2005)

Sec. 13-4-40. Contents.

A sketch plan shall include the following items:

- (1) The name of the subdivision. No subdivision in the City shall bear the same name as another subdivision unless adjoining and using consecutive filing numbers;
- (2) The names and addresses of the owner and of the applicant;
- (3) A map or maps (drawn to an appropriate scale) showing the general location of the subdivision, the property boundaries of the subdivision area, true north and significant natural and man made features on the site and within one-half (½) mile of any portion of the site; and
- (4) A map drawn to a scale of one (1) inch equals one hundred (100) feet showing:
 - a. Park or open space dedication and lot and street layout with dimensions;
 - b. Existing topographic contours at appropriate intervals drawn from available data, such as United States Geological Survey (U.S.G.S.) maps; and

c. The acreage of the entire tract and the percent of total area to be devoted to streets and to each other type of use. (Ord. 776 §15-64, 2005)

Division 2
Preliminary Plat

Sec. 13-4-110. Generally.

After receiving comments and suggestions on the sketch plan from the Planning and Zoning Commission and the subdivider has reached preliminary conclusions concerning the feasibility and design of his or her proposed subdivision, he or she will prepare a preliminary plat and required supplemental information for presentation to the Planning and Zoning Commission for its consideration. The purpose of this preliminary review is to check the proposed subdivision against the design standards and improvement requirements stated herein and to be sure that City zoning and master plan objectives can be met. Thorough analysis of the problems at this stage will expedite approval of the final plat and will prevent the repetition of expensive calculations and drafting required for the final plat. (Ord. 710, 1998; Ord. 776 §15-71, 2005)

Sec. 13-4-120. Filing fee.

(a) A filing fee is required for review of the plat and shall be submitted with the preliminary plan. The filing fee shall be set by City Council resolution.

(b) Any additional costs made necessary by either: 1) unusual circumstances; 2) more than ordinary review; and/or 3) other services being provided by the City or authorized personnel; are to be paid by the subdivider prior to approval of the final plat. (Ord. 710, 1998; Ord. 776 §15-72, 2005; Ord. 811 §1, 2009)

Sec. 13-4-130. Copies submitted.

Ten (10) copies, unless additional or fewer copies are requested by the City Manager, of the preliminary plat and required supplemental material shall be organized into packet form with one (1) copy of each required item included in each packet, and such packets shall be presented by the subdivider to the City Manager at least thirty (30) days prior to a regular Planning and Zoning Commission meeting. (Ord. 710, 1998; Ord. 776 §15-73, 2005)

Sec. 13-4-140. Review process.

(a) Within thirty (30) days of receipt of the preliminary plat, the preliminary plat shall be reviewed in general by the City Manager and, if in acceptable form for further processing, may be referred to City, county, state, utility, emergency service, school and special district offices and other agencies as appropriate.

(b) In order to be considered, all recommendations from the preceding listed offices shall be submitted to the City Manager at least ten (10) days prior to the next regular Planning and Zoning Commission meeting, unless a necessary extension of not more than thirty (30) days has been consented to by the subdivider and the City Manager. The failure of any agency or office to respond within the

prescribed time period shall, for the purpose of the hearing on the plan, be deemed an approval of such plan. (Ord. 710, 1998; Ord. 776 §15-74, 2005)

Sec. 13-4-150. Public hearing.

(a) The preliminary plat, along with available comments from the above listed offices, agencies and governmental bodies, shall be presented at a public hearing before the Planning and Zoning Commission.

(b) Notice of the time and place of the public hearing shall be sent to the subdivider and owners of land within three hundred (300) feet of the platted land not less than twenty (20) days prior to the public hearing. Additionally, notice of the public hearing shall be published in a newspaper of general circulation within the City at least fifteen (15) days prior to such hearing. (Ord. 710, 1098; Ord. 776 §15-75, 2005; Ord. 811 §1, 2009)

Sec. 13-4-160. Planning and Zoning Commission action.

Within thirty (30) days following its public hearing, the Planning and Zoning Commission shall recommend approval, disapproval or approval with modifications of the preliminary plan. (Ord. 776 §15-76, 2005)

Sec. 13-4-170. Time limitations for preliminary plat.

Approval of a preliminary plat shall be effective for a period of eighteen (18) consecutive months. One (1) twelve-month extension may be granted by the Planning and Zoning Commission upon application for the same. Notice of the granting of such application shall be furnished in writing by the Planning and Zoning Commission to the applicant. If a final plat is not submitted within the granted time, a preliminary plat must again be submitted before action may be taken on a final plat. Any fees that have previously been paid shall be forfeited. (Ord. 710, 1998; Ord. 776 §15-77, 2005; Ord. 811 §1, 2009)

Sec. 13-4-180. Contents.

The preliminary plat will show the following information:

- (1) Name of subdivision.
- (2) Minimum scale: One (1) inch equals one hundred (100) feet (i.e., one [1] inch equals fifty [50] feet is acceptable; one [1] inch equals two hundred [200] feet is not acceptable)
- (3) Total acres to be subdivided.
- (4) Name and address of the landowner.
- (5) Location of the subdivision as a part of some larger subdivision or tract of land and by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner.
- (6) Names and addresses of the subdivider, the designer of the subdivision and the surveyor who shall be licensed by the State Board of Examiners for Land Surveyors.

(7) Names and locations of abutting subdivisions and the names and addresses of all abutting landowners.

(8) Location of section lines and location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for public use and other important features within and adjacent to the tract to be subdivided.

(9) Date of preparation and north sign.

(10) Location by preliminary survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features, including direction of flow, water level elevations, typical depths and location and extent of areas subject to inundation, whether such inundation is frequent, periodic or occasional.

(11) Proposed sites, if any, for multi-family residential uses, business areas, industrial areas, churches and other nonpublic uses, exclusive of one-family residential areas.

(12) Total number of proposed dwelling units.

(13) Total number of square feet of proposed nonresidential floor space.

(14) Total number of proposed off-street parking spaces, excluding those associated with single-family residential development.

(15) Boundary lines and dimensions of the subdivision.

(16) Location of existing and/or proposed utility facilities, to include water, sewer, electric, gas, telephone, drainage and cable television.

(17) Estimated total number of gallons per day of sewage to be treated.

(18) Estimated total number of gallons per day of water system requirements.

(19) Location map drawn to scale showing the relationship of the proposed subdivision to the City.

(20) Proposed street names. (Ord. 710, 1998; Ord. 776 §15-78, 2005)

Sec. 13-4-190. Supplementary information.

The following supplemental information shall be submitted with the preliminary plat:

(1) Application for a subdivision filled out in detail.

(2) Perimeter property survey and disclosure of ownership.

(3) Relevant site characteristics and analysis applicable to the proposed subdivision, including the following:

- a. Reports concerning streams, lakes, topography, water table and vegetation.
- b. Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision.
- c. In areas of potential radiation hazard to the proposed future land use, these potential radiation hazards shall be evaluated.
- d. Maps and tables concerning suitability of types of soil in the proposed subdivision in accordance with the local Natural Resources Conservation Service soil survey.
- e. Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required of the developer by the City.
- f. Adequate evidence of a water supply that is sufficient in terms of quality, quantity and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed.
- g. Evidence that public or private sewage treatment facilities can and will provide adequate sewage treatment for the proposed subdivision if such service is to be provided by an existing district.

(4) The applicant shall enter into an agreement with the City, provided that the applicant shall be responsible for reimbursing the City for all legal, engineering, planning and other professional or consultant fees or costs related to the application. (Ord. 710, 1998; Ord. 776 §15-79, 2005)

Division 3
Final Plat

Sec. 13-4-310. Generally.

The final plat shall conform substantially to the preliminary plat as approved, except that if desired by the subdivider, the final plat may constitute only a portion of the approved preliminary plat. If only a portion of the preliminary plat is included on the final plat, letters of acknowledgement shall be obtained by the subdivider from all public utility companies involved in the subdivision, and copies of such letters shall be submitted with the final plat. However, the provisions contained in Division 2 of this Article will apply on the remainder of the preliminary plat. (Ord. 710, 1998; Ord. 776 §15-91, 2005; Ord. 811 §1, 2009)

Sec. 13-4-320. Filing.

After approval of the preliminary plat and within the time limitations provided in Section 13-4-170 of this Article, the subdivider shall submit to the City Manager the original and four (4) copies of the final plat and the required supplemental material. The final plat shall be submitted at least thirty (30) days prior to a regular Planning and Zoning Commission meeting. (Ord. 710, 1998; Ord. 776 §15-92, 2005)

Sec. 13-4-330. Planning and Zoning Commission review.

The Planning and Zoning Commission shall review the final plat and approve, disapprove or approve with modifications the final plat and submit the plat, together with the Planning and Zoning Commission's recommendations in writing to the City Council. (Ord. 776 §15-93, 2005)

Sec. 13-4-340. City Council resolution.

The City Council shall review the final plat and approve, disapprove or approve with modifications the final plat approved by the Planning and Zoning Commission. In the event of the Planning and Zoning Commission's disapproval, the Council, by an affirmative vote of four (4) of its members, may modify such plat and adopt the modified plat. If the plat is disapproved or referred, the reasons shall be stated in writing and furnished to the subdivider. (Ord. 776 §15-94, 2005)

Sec. 13-4-350. Recording.

Following the approval of the final plat by the City Council, the plat shall be signed by the Mayor and attested by the City Clerk. After all fees have been paid, the City Clerk shall then record the plat in the office of the County Clerk and Recorder. The subdivider shall furnish to the City Clerk the recording fee required by the County Clerk and Recorder prior to the recording of the plat. (Ord. 776 §15-95, 2005)

Sec. 13-4-360. Contents.

The final plat will meet the following requirements and show the following information:

(1) The final plat shall be drafted at a minimum scale of one (1) inch equals one hundred (100) feet; i.e., one (1) inch equals fifty (50) feet is acceptable; one (1) inch equals two hundred (200) feet is not acceptable. The final plat shall be drafted by the use of permanent black ink on linen or Mylar drafting media with outer dimensions of twenty-four (24) inches by thirty-six (36) inches, together with an electronic file. Good draftsmanship shall be required in order for all of the following information to be shown accurately and legibly.

(2) Titles, scale, north sign and date.

(3) Primary control points or descriptions and "ties" to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referred. These primary control points shall be determined prior to the final approval; also, the monuments and ties to monuments shall actually exist in the field before final approval. Elevation data shall be referred to U.S.G.S. datum.

(4) Tract boundary lines, right-of-way lines of streets, easements, other rights-of-way and property lines of residential lots and other sites with accurate dimensions, bearings or angles and radii, arcs or chords and central angles of all curves.

(5) Name of each street and right-of-way. Width of each street and right-of-way.

(6) Any easements granted to public utility companies or required by the Planning and Zoning Commission and the location, dimensions and purpose of all easements.

(7) Number to identify each lot or site and each block and the area of each lot.

(8) Location and description of monuments.

(9) Certificate of acceptance as outlined below:

NOTICE

Public notice is hereby given that acceptance of this platted subdivision by the City does not constitute an acceptance of the parks, open space, streets, alleys and easements reflected hereon for maintenance by said City.

Until the parks, open space, streets, alleys and easements meet City standards and are specifically accepted by the City Council in a site-specific development plan, the maintenance, construction and all other matters pertaining to or affecting said parks, open space, streets, alleys and easements are the sole responsibility of the owners of the land embraced within this subdivision.

Notice is further given that no building permit will be issued by officials of this City for improvements of any nature on any property reflected on this platted subdivision until such time as the "acceptance" as hereinabove described has been filed for record with the County Clerk and Recorder.

(10) Certification of final plat as outlined below:

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

THAT _____ (a Colorado corporation,) is the owner of that real property situated in the City of Monte Vista, Rio Grande County, Colorado, and lying within the exterior boundary of (subdivision name) .

THAT it has caused said real property to be laid out and surveyed as (subdivision name) , and does hereby dedicate and set apart all of the streets, alleys and other public ways and places as shown on the accompanying plat to the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements.

IN WITNESS WHEREOF (corporation name) has caused its name to be hereunto subscribed by its President and its corporate seal to be hereunto affixed, attested by its Secretary, this ____ day of _____, A.D. 20____.

ATTEST:

(Secretary's name)

(Corporation name)
 (President's name)

STATE OF COLORADO)
) ss.
COUNTY OF RIO GRANDE)

The foregoing instrument was acknowledged before me this ____ day of _____ A.D. 20____
by (President's name) as President and (Secretary's name) as secretary of (corporation name) (a Colorado
corporation).

My commission expires _____

(Notary's name)
Notary Public

SURVEYOR'S CERTIFICATE

I, (Surveyor's name), a duly registered land surveyor in the State of Colorado, do hereby certify that this part
of (Subdivision name) truly and correctly represents the results of a survey made by me or under my direct
supervision.

(Surveyor's name)
Surveyor

(Surveyor's stamp shall appear with this Certificate)

PLANNING AND ZONING COMMISSION CERTIFICATE

Approved this ____ day of _____, A.D. 20____, Planning and Zoning Commission, City of Monte Vista,
Colorado.

Chairman

CITY'S CERTIFICATE

Approved this ____ day of _____, A.D. 20____, City Council, Monte Vista, Colorado. This approval does
not guarantee that the size or soil conditions of any lot shown hereon are such that a building permit may be issued. This
approval is with the understanding that all expenses involving necessary improvements for all utility services, paving,
grading, landscaping, curbs, gutters, street lights, street signs and sidewalks shall be financed by others and not the City
of Monte Vista.

ATTEST: City of Monte Vista
 By Mayor

City Clerk

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO)
) ss.
COUNTY OF RIO GRANDE)

I hereby certify that this instrument was filed in my office at _____ o'clock_____, A.D. 20____, and is duly recorded in Book No.____, Page No. _____.

Fees _____ paid _____
Recorder _____
Deputy _____

(Ord. 710, 1998; Ord. 776 §15-96, 2005; Ord. 811 §1, 2009)

Sec. 13-4-370. Supplementary information for public improvements.

(a) The following supplemental information shall be submitted with the final plat:

- (1) Submit plan and centerline profiles for all streets and roads.
- (2) Submit plan and profiles for sanitary and storm sewers and for water distribution systems.
- (3) Show stationing on plan and profile (one-hundred-foot intervals).
- (4) Define and locate horizontal and vertical curves both on plan and profile (length, PC, PI, PT, radius, tangent, delta).
- (5) Show existing grade by a dashed line on profile.
- (6) Show new or proposed grade by a heavy solid line on profile.
- (7) Show percent of grade from PI to PI on profile.
- (8) Draw typical cross-section.
- (9) Show and dimension roads, curbs, gutters, sidewalks, water and sewer utility lines and structures within the right-of-way plan.
- (10) Locate and size culverts, including CSP, RCP, box, etc., on both plan and profile.
- (11) Show direction of water flow on the plan.
- (12) Show street names on the plan and profile.
- (13) Show minimum twenty-foot radius at shoulder or curbline at all intersections on the plan.
- (14) Show design benchmarks data on the plan, and submit one (1) set of traverse closure computations and solar or Polaris computations of the exterior boundary of the subdivision.

(15) Submit final construction plans for all structures; e.g., box culverts, bridges, etc. All structure plans must bear the seal of a registered professional engineer and must be approved by the City Council.

(16) Submit drainage plans as required by Section 13-6-80 of this Chapter. If the final plat is to be presented in stages, a general drainage plan for the entire area shall be presented with the first section, and appropriate development stages for the drainage system for each section shall be indicated.

(b) The subdivider shall be responsible for providing a computer check on the final plat to ensure that all exterior and interior lines of the subdivision join or close. If this is not provided, the City shall order the computer check and have it charged to the subdivider. (Ord. 710, 1998; Ord. 776 §15-97, 2005)

Sec. 13-4-380. Time limitations.

After approval of the final plat, substantial construction must be completed within the proposed subdivision in one (1) year, and all infrastructure construction shall be completed within three (3) years or said plat shall be deemed abandoned and vacated, which vacation shall be evidenced by a certificate filed by the City Manager in the office of the County Clerk and Recorder attesting that all final construction and improvements have not been completed within the three-year period as required by this Section and that said plat is therefore deemed to be abandoned and vacated; provided that, by a developer's agreement, a certain percentage of improvements and construction may be agreed between the subdivider and the Planning and Zoning Commission to be completed each year, and that said three-year development requirement may be extended upon good cause shown and for a successive period as the Planning and Zoning Commission and the subdivider may agree in writing. Stoppage of work for one hundred twenty (120) consecutive days shall deem the final plat abandoned and vacated. (Ord. 710, 1998; Ord. 776 §15-98, 2005; Ord. 811 §1, 2009)

ARTICLE 5

Design Standards

Sec. 13-5-10. General requirements.

(a) Consideration shall be given to the influence of topography of a subdivision insofar as it affects street pattern, proper drainage and maintenance of scenic views. The design and development of subdivisions shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil, mature trees and scenic views.

(b) Where railroads, canals or ditches are abutting or contained within a proposed subdivision, provisions for safety and noise buffering and other protective treatments shall be made. (Ord. 776 §15-121, 2005)

Sec. 13-5-20. Alleys.

(a) Alleys shall be provided in commercial and industrial developments, except that the Planning and Zoning Commission may waive this requirement where other definite provisions are made for service access and off-street parking adequate for the uses proposed.

(b) Alleys may be provided in residential developments, with the approval of the Planning and Zoning Commission.

(c) The width of an alley shall be either: (1) a minimum of twenty (20) feet: or (2) consistent with the extension of an existing alley.

(d) Alleys shall have access to the public streets from either end. (Ord. 710, 1998; Ord. 776 §15-122, 2005)

Sec. 13-5-30. Easements.

(a) Utility easements normally shall be sixteen (16) feet in width measuring eight (8) feet on each side of abutting rear lot lines. Easements along side lot lines where required will measure five (5) feet on each side. On subdivision perimeter rear lot lines adjacent to unsubdivided property, easements will measure ten (10) feet in width. Where front lot line easements are required, a minimum of ten (10) feet shall be allocated adjacent to the public street. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use of utility companies due to drainage, irrigation ditches, timbered areas or other obstructions, suitable width easements will be provided adjacent to such areas of obstruction.

(b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further widths as may be required for necessary flood control measures. The minimum requirements for such easements shall be based on the greatest flood of record in the County. (Ord. 776 §15-123, 2005)

Sec. 13-5-40. Blocks.

(a) The lengths, widths and shapes of blocks shall be determined with due regard to:

(1) Provisions of adequate building sites suitable to the special needs of the type of use contemplated.

(2) Zoning requirements as to lot sizes and dimensions.

(3) Needs for convenient access, circulation, control and safety of street traffic.

(4) Limitations and opportunities of topography.

(5) Adjacent street and block patterns.

(b) Block lengths shall not exceed eight hundred (800) feet nor be less than three hundred twenty (320) feet (length requirements may be waived by the Planning and Zoning Commission when the proposed density of the subdivision is not more than one (1) dwelling unit per acre).

(c) Pedestrian crosswalks, not less than fourteen (14) feet wide, shall be designed and are required to provide access to schools, playgrounds, shopping centers or other community facilities. (Ord. 710, 1998; Ord. 776 §15-124, 2005)

Sec. 13-5-50. Lots.

(a) The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision, for the type of development and use contemplated and for future resubdividing where appropriate.

(b) Residential lot dimensions shall conform to the requirements of Chapter 12 of this Code.

(c) Depth and width of properties shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(d) The frontage of lots shall be subject to the following:

(1) Lot frontage widths shall conform to the requirements of Chapter 12 of this Code.

(2) Double frontage lots should be avoided except where essential to provide separation of residential development from expressways and arterial streets or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet in width, and across which there shall be no vehicular right of access, may be required along the property line of lots abutting such a traffic artery or other disadvantageous use.

(e) On corner lots building setback from and orientation to both streets shall conform to front setback requirements of Chapter 12 of this Code.

(f) Side lot lines shall be substantially at right angles or radial to street lines. (Ord. 776 §15-125, 2005; Ord. 811 §1, 2009)

Sec. 13-5-60. Streets.

The arrangement, character, extent, width, grade and location of all streets shall conform to existing topographical conditions to enhance public convenience and safety, and such streets shall be designed in accordance with the following provisions:

(1) The proposed street layout shall be made according to sound land planning practice for the type of development proposed and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation of appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.

(2) Whenever a subdivision abuts or contains an existing or proposed arterial street, the Planning and Zoning Commission may require frontage streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots or such other treatment as may be

necessary for adequate protection of residential property and to afford separation of arterial and local traffic.

(3) Local streets shall be laid out so that their use by arterial traffic will be discouraged.

(4) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning and Zoning Commission and the City Council may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures.

(5) Reserve strips controlling access to streets shall be prohibited except where their control is placed in the City under conditions approved by the Planning and Zoning Commission and the City Council.

(6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be required of the subdivider.

(7) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged to permit the logical location and opening of future streets and appropriate resubdivision with provisions for adequate utility easement.

(8) A tangent of at least four hundred (400) feet long shall be introduced between reverse curves on arterial streets.

(9) The dedication of a half street shall not be accepted unless:

a. The subdivider obtains for the City a dedication from the abutting landowner of the other one-half ($\frac{1}{2}$) of the street.

b. The subdivider obtains from the abutting landowner an agreement in a form satisfactory to the City Attorney that guarantees the cost of the improvements and construction of the same on the half street within a time suitable to the Planning and Zoning Commission.

c. The subdivider guarantees the construction of the improvements on the half street which he or she is dedicating.

d. Any other similar arrangement approved by the Planning and Zoning Commission and the City Council.

(10) Culs-de-sac shall not be longer than four hundred (400) feet measured from the entrance to the rear of the turnaround and shall be provided at the closed end with a turnaround having an outside right-of-way diameter of at least one hundred (100) feet of paved road surface. Length requirements may be waived by the Planning and Zoning Commission when the proposed density of the subdivision is not more than one (1) dwelling unit per acre.

(11) No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall meet the following standards unless otherwise approved by the Planning and Zoning Commission.

The following suffixes (Table 13-3) are to be used for new street names:

Table 13-3
Street Name Suffixes

<i>Suffix</i>	<i>Abbreviation</i>	<i>Description</i>
Avenue	AVE	An east-west street generally running in a straight line
Boulevard	BLVD	A street which is 70 feet wide or greater, which is usually separated by a raised median strip, usually landscaped and which consists of 4 or more lanes
Circle	CIR	A street that ends on the road from which it began
Court	CT	A north-south permanently dead-end street or terminating in a cul-de-sac not longer than 400 feet in length
Drive	DR	A street generally meandering in a north-south direction
Lane	LN	A private road greater than 1,000 feet in length
Parkway	PKWY	A thoroughfare designated as a collector or arterial with a median reflecting the parkway character implied in the name
Place	PL	An east-west permanently dead-end street terminating in a cul-de-sac not longer than 400 feet in length
Road	RD	A designated street which extends through both urban and rural areas
Street	ST	A north-south street generally running in a straight line
Way	WAY	A curvilinear street generally meandering in an east-west direction

- a. Use only accepted suffixes identified in Table 13-3.
- b. Within the Joint Consultation Area around Monte Vista, roads will be named using City names, not County Road numbers.
- c. Continuous roads should have continuous names (with the exception of circle roads). Names should not change except at the Joint Consultation Area boundary; however, names are not required to change at the Growth Management Area boundary.
- d. Cardinal directions cannot be used in the name. Directions are used only to designate the portion of an existing road; e.g., North Road, East Fort Road, Northstar Drive are not acceptable.
- e. No curse words or derogatory terms shall be used for road names.
- f. These are meant to be minimum standards for the City. The main objective is to provide clear street names for citizens and for emergency dispatch and to minimize the possibility of emergency personnel being unable to find a location.
- g. All names shall be of the commonly acceptable spelling, according to a standard dictionary.

h. Street names cannot contain any punctuation or special characters. Only alphabetical symbols A through Z and numbers zero (0) through nine (9) and blank spaces may be used in street names.

i. Any time that a street makes a directional change of approximately ninety (90) degrees, the street name shall change. A directional change of approximately ninety (90) degrees shall mean a horizontal curve where a reduction in the design speed is required (i.e., a sharp turn versus a sweeping curve).

j. Existing street names shall continue across intersections and roundabouts.

(12) Intersections:

a. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than seventy (70) degrees.

b. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted.

c. Approved street name signs shall be installed at all intersections in the subdivision according to the street names recommended by the Planning and Zoning Commission and approved by the City Council.

(13) Street and alley right-of-way widths, curves and grades shall meet the standards shown on Table 13-4 unless otherwise approved by the Planning and Zoning Commission:

**Table 13-4
Street Standards**

<i>Classification</i>	<i>Minimum Right-of-Way (feet)</i>	<i>Minimum Pavement Width (feet)</i>	<i>Minimum Centerline Curve Radii (feet)</i>	<i>Maximum Grade (%)</i>
Arterial Street	120	66	850	.5
Collector Street	80	32	600	.5
Local Street	60	28	100	.5
Frontage Street	40	20	100	.5
Alley	20	0	100	.5

a. Freeway standards shall conform to the state highway standards.

b. Minimum grade shall be one-half percent (0.5%).

c. Maximum grade through intersections shall be four percent (4%). Such maximum grade shall extend a minimum of fifty (50) feet each direction from the centerline of the intersecting streets. (Ord. 710, 1998; Ord. 776 §15-126, 2005)

Sec. 13-5-70. Public sites and open spaces.

(a) The City Council, upon consideration of the master plan and the particular type of development proposed, shall require the dedication or reservation of ten percent (10%) of the total area of the subdivision for public purposes other than streets. The land so dedicated or reserved shall be of a character, extent and location suitable for public use for parks, open spaces, historic sites, scenic areas or other necessary public purposes as determined by the City Council after receiving recommendations from the Parks and Recreation Department.

(b) If the City Council finds that land dedication or reservation is not appropriate, the subdivider shall make a cash contribution to the City calculated at ten percent (10%) of the fair market value of the land as zoned for development, which funds will be used for the purchase of land for parks, open spaces, historic sites, scenic areas or other necessary public purposes as determined by the City Council.

(c) If the City Council finds it appropriate, the subdivider shall be required to both dedicate or reserve land within the subdivision and to make a cash contribution. In such case, the amounts shall be calculated so that the total percentage of the land dedicated and the cash contributed does not exceed ten percent (10%).

(d) The subdivider will be required to design, landscape, purchase playground equipment, provide water and sewer service to irrigate and provide sanitation facilities for the park. Open spaces are required to be accessible to firefighting equipment. (Ord. 776 §15-127, 2005)

Sec. 13-5-80. Acceptance of public lands.

(a) Approval of a subdivision plat by the City Council shall not constitute an acceptance by the City for maintenance of the parks, open space, streets, alleys, easements or other public lands dedicated on the subdivision plat by the owners thereof. The acceptance of any of these lands for a public use of any nature within the City shall be only by appropriate action of the City Council.

(b) In any territory for which the Planning and Zoning Commission adopted a major street plan, the City shall not accept any street or authorize water mains, sewers or storm drains to be laid out in any street unless such street:

(1) Has received the legal status of a public street prior to the adoption of a major street plan; or

(2) Corresponds with a street shown on the official master plan or with a street on a subdivision plat made and adopted by the Planning and Zoning Commission.

However, the City Council may accept any street if the ordinance accepting such street is first submitted to the Planning and Zoning Commission and if approved, is enacted by not less than a majority of the entire membership of the City Council or, if disapproved by the Commission, is enacted by the affirmative vote of four (4) members of the City Council. (Ord. 710, 1998; Ord. 776 §15-128, 2005)

Sec. 13-5-90. Street trees.

(a) Two (2) street trees shall be provided in residential subdivisions for each lot of one hundred (100) feet frontage or less and at least three (3) trees for every lot in excess of one hundred (100) feet frontage.

For corner lots, at least two (2) trees shall be required for each street. The subdivider shall ensure that trees are located so as not to interfere with sight distance at driveways and intersections. The type, size and location of trees required to be installed shall be determined by the Planning and Zoning Commission in consultation with the City Tree Board.

(b) Installation of trees on a lot shall take place within one (1) year following the improvement of the adjacent street. The subdivider shall guarantee the replacement of any tree which dies within one (1) year following installation. (Ord. 710, 1998; Ord. 776 §15-129, 2005)

ARTICLE 6

Improvements

Sec. 13-6-10. General responsibility of subdividers, developers and contractors.

(a) The subdivider shall be responsible for complying with the requirements of this Article, and he or she shall present evidence prior to final approval of any plat that necessary arrangements have been made with each of the serving utilities, including payment for any construction or installation charges, for the installation of facilities in compliance herewith.

(b) All improvements for the subdivision are the up-front responsibility of the developer. Any phased development of improvement in a subdivision shall only be allowed pursuant to a written phased plan of development submitted by the developer, approved by the Planning and Zoning Commission, subject to final approval by the City Council and providing for such security as the City Council and Planning and Zoning Commission may deem adequate to secure such phased development.

(c) All developers and contractors shall adhere to the City standard construction specifications, incorporated herein by reference, as the same may be from time to time amended except where any federal or state code preempts or provides more stringent specifications and standards. (Ord. 710, 1998; Ord. 776 §15-150, 2005; Ord. 811 §1, 2009)

Sec. 13-6-20. Plan preparation.

Plans for the public improvements herein required shall be prepared by a qualified engineer registered in the State. Two (2) sets of prints of the plans and specifications for all public improvements shall be filed with the City Clerk together with an electronic file at the time of submission of the final plat. One (1) set of "as-built" plans and specifications, certified and signed by an engineer registered in the State, shall be filed with the City Manager prior to the acceptance by the City Council of any public improvement installed by the subdivider, and three (3) copies of the "as-built" plans shall be filed with the City Clerk. All public improvements must meet or exceed the City standard construction specifications. The City reserves the right to determine final design configurations, and the City requires an approval of the final design. (Ord. 710, 1998; Ord. 776 §15-151, 2005)

Sec. 13-6-30. Guarantee of completion of public improvements.

(a) The approved site-specific development plan shall contain:

(1) A subdivision improvements guarantee agreeing to construct all required public improvements shown in the infrastructure improvements plan, together with collateral which is sufficient, in the judgment of the City Council, to make provisions for the completion of such improvements in accordance with design and time limitations. Such collateral may be, but is not limited to, one (1) of the following at the City's discretion:

a. Cash, certified funds, a certificate evidencing good and sufficient performance and payment bond or letter of credit to secure the performance and completion of the public improvements to be dedicated to the City in an amount equal to one hundred twenty percent (120%) of the estimated cost of said improvements.

b. No letter of credit or performance bond drawn upon a company, bank or financial institution having any relationship to the developer or any principal, director, officer or shareholder of the developer (other than the relationship of depositor or checking account holder) shall be acceptable. The City may reject any security for any reason.

(2) Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the site-specific development plan which, in the judgment of the City Council, will make reasonable provisions for completion of such improvements in accordance with design and time limitations.

(b) As public improvements are completed, the developer may apply in writing to the City Council for a release of part or all of the collateral deposited with the City Council. Upon inspection and approval, the City Council shall release such collateral. Approval of the public improvements is a preliminary acceptance before the completion of the warranty period and a final acceptance. If the City Council determines that any such improvements are not constructed in substantial compliance with specifications, it shall furnish the developer with a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the City Council determines that the developer will not construct any or all of the improvements in accordance with all of the specifications, the City Council may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications. During preliminary acceptance, the City may authorize the use of the public improvements by the general public. (Ord. 710, 1998; Ord. 776 §15-152, 2005; Ord. 811 §1, 2009)

Sec. 13-6-40. Monuments.

All subdivision boundary monuments, block corners and lot corners shall be established pursuant to Section 38-51-101, C.R.S. Any monuments set or found, including control corners, shall be clearly described on the plat. (Ord. 776 §15-153, 2005)

Sec. 13-6-50. Street improvements.

(a) Streets must be constructed to City standards, and a paved surface shall be developed to assure passability by ordinary traffic under all weather conditions.

(b) Curbs, gutters and sidewalks shall be required on both sides of the street.

(1) Curbs and gutters will have a six-inch vertical face and be a minimum of two (2) feet wide.

(2) Sidewalks attached to the curb will be a minimum of five (5) feet wide and three and one-half (3½) inches thick. Detached sidewalks are permitted to be four (4) feet wide and three and one-half (3½) inches thick.

(c) Where bridges and culverts are necessary as part of the improvements in a subdivision, the developer shall be responsible for their construction. (Ord. 710, 1998; Ord. 776 §15-154, 2005; Ord. 811 §1, 2009)

Sec. 13-6-60. Water system.

(a) A public water distribution system shall be required in all subdivisions. The developer shall make the necessary arrangements, including any construction or installation charges, to extend public water service to any building site in the proposed subdivision. In particular, the developer shall bear the cost of extending the main line of the municipal water system to the proposed subdivision, the cost of connecting the municipal water system and the distribution system of the proposed subdivision and the cost of extending the water distribution system to each lot within the proposed subdivision.

(b) Water lines shall be designed to connect each lot with mains in accordance with applicable engineering standards.

(c) Fire hydrants shall be required in all subdivisions. Hydrants shall be spaced not more than three hundred twenty (320) feet apart and shall be located at least one (1) hydrant per intersection.

(d) If oversized waterlines or off-site improvements are required, arrangements for reimbursement shall be made whereby the developer may be allowed to recover the cost of the waterlines or off-site improvements that have been provided by him or her beyond the needs of his or her development; further, the method and time of payment under the reimbursement shall be established in accordance with the City's current policies relating to the emplacement of such oversized waterlines or off-site improvements. (Ord. 710, 1998; Ord. 776 §15-155, 2005; Ord. 811 §1, 2009)

Sec. 13-6-70. Sanitary sewer system.

(a) A public sanitary sewer collection system shall be required in all subdivisions. The developer shall make the necessary arrangements, including any construction or installation charges, to extend public sanitary sewer service to any building site in the proposed subdivision. In particular, the developer shall bear the cost of extending the main line of the sewer system to the proposed subdivision, the cost of connecting the sewer system and the collection system of the proposed subdivision, and the cost of extending the sewage collection system to each lot within the proposed subdivision.

(b) Sewer lines shall be designed to connect each lot with mains in accordance with applicable engineering standards.

(c) If oversized sewer lines or off-site improvements are required, arrangements for reimbursement shall be made whereby the developer may be allowed to recover the cost of the sewer lines or off-site improvements that have been provided by him or her beyond the needs of his or her development; further, the method and time of payment under the reimbursement shall be established in accordance with the City's current policies relating to the emplacement of such oversized sewer lines or off-site improvements.

(d) Pretreatment of industrial discharge into the City sewage system or treatment plant shall be required if, in the opinion of the City, the concentration of such discharge results in shock loading or contains elements or compounds untreatable by normal City treatment methods. (Ord. 776 §15-156, 2005; Ord. 811 §1, 2009)

Sec. 13-6-80. Storm drainage.

(a) The developer shall provide a complete drainage system, designed by a professional engineer, licensed in the State and qualified to perform such work, and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall also be identified.

(b) The entire subdivision area shall comply with all flood prevention and protection requirements contained in Chapter 12, Article 22 of this Code.

(c) The drainage and floodplain systems shall be designed to permit the unimpeded flow of natural watercourses and to ensure adequate drainage of all low points.

(d) If oversized storm drain lines or off-site improvements are required, arrangements for reimbursement shall be made whereby the developer may be allowed to recover the cost of the storm drain lines or off-site improvements that have been provided by him or her beyond the needs of his or her development; further, the method and time of payment under the reimbursement shall be established in accordance with the City's current policies relating to the emplacement of such oversized storm drain lines or off-site improvements. (Ord. 776 §15-157, 2005; Ord. 811 §1, 2009)

Sec. 13-6-90. Electric, gas, telephone and cable service.

(a) The developer shall meet with appropriate utility companies prior to submitting the preliminary plat in order to resolve problems of servicing the proposed subdivision with electric, gas, telephone and cable utilities.

(b) The developer shall make the necessary arrangements, including any construction or installation charges, to extend electrical, gas, telephone and cable service to the building site in the proposed subdivision. In particular, the developer shall bear the cost of extending public utility facilities to the proposed subdivision, the cost of connecting public utility facilities and the distribution lines within the proposed subdivision. The installation of all utilities shall be subject to all other applicable City and state regulations. Such facilities shall be placed within easements or public streets, as herein provided, or upon private easements or rights-of-way provided for particular facilities.

(c) If the location of utility easements adjacent to property lines is unsuitable for use by utility companies due to drainage, irrigation ditches, timbered areas or other obstructions, suitable easement will be provided adjacent to such areas or obstructions. Modification of the easement width requirement may be granted only in accordance with procedures under Section 13-3-20 and approval by the public utility or utilities concerned.

(d) All public utility facilities normally shall be located in rear or side lot easements except crossings thereof to accomplish a continuous connection of the utility company system, unless there is adequate evidence that the same cannot be accomplished by a reasonably available means. This provision shall not apply to street lighting facilities and gas facilities.

(e) All electric and communication utility lines and services and all street lighting circuits, except as hereinafter provided, shall be installed underground, and street lighting shall be provided by means of the utility's standard ornamental facilities.

(1) Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities may be placed above ground within the utility easement provided therefor or within the street or other public place as approved.

(2) All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or aboveground facilities.

(3) It shall not be necessary for the servicing utility to remove or replace existing utility facilities used or useful in serving the subdivision. (Ord. 710, 1998; Ord. 776 §15-158, 2005; Ord. 811 §1, 2009)

Sec. 13-6-100. Warranty term and final acceptance of public improvements.

The preliminary acceptance of the public improvements is for the duration of the one-year warranty term on all public improvements. After the term of warranty, the City and developer will conduct a physical inspection of the public improvements and provide a written list of deficiencies to be corrected within thirty (30) days by the developer prior to final acceptance. The warranty period for deficiencies shall start over and extend for an additional one (1) year as to the portion of the public improvements reconstructed. When all deficiencies have been corrected, the City shall grant final acceptance to all or only a portion of the public improvements and continue the preliminary acceptance period and warranty requirements for any portion not granted final acceptance. Upon final acceptance of all public improvements, the City shall release any remaining collateral. If the deficiencies are not corrected in thirty (30) days, the City may, at its discretion, contract for repairs or repair the deficiencies and draw from the collateral. (Ord. 776 §15-159, 2005)

Sec. 13-6-110. Building permits.

Building permits may be issued on the first day of the warranty period. (Ord. 776 §15-160, 2005)

Sec. 13-6-120. Other improvements.

Other improvements not specifically mentioned herein but found necessary due to conditions peculiar to the site and necessary for the protection of the surrounding properties, the neighborhood or the general welfare of the public shall be required by the Planning and Zoning Commission. These requirements may:

- (1) Increase requirements in the standards, criteria or policies established by these regulations;
- (2) Require structural features or equipment as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic; or
- (3) Contain restrictions or provisions deemed necessary to establish parity with uses permitted in the same zone with respect to avoiding nuisance-generating features. (Ord. 776 §15-161, 2005)

CHAPTER 14

Building Regulations

Article 1 Building Code

- Sec. 14-1-10 Adoption
- Sec. 14-1-20 Certification and copy on file
- Sec. 14-1-30 Amendments
- Sec. 14-1-40 Application
- Sec. 14-1-50 Violation; penalty

Article 2 Residential Code

- Sec. 14-2-10 Adoption
- Sec. 14-2-20 Certification and copy on file
- Sec. 14-2-30 Amendments
- Sec. 14-2-40 Application

Article 3 Plumbing Code

- Sec. 14-3-10 Adoption
- Sec. 14-3-20 Amendments
- Sec. 14-3-30 Purpose and scope
- Sec. 14-3-40 Permit required
- Sec. 14-3-50 Application

Article 4 Mechanical Code

- Sec. 14-4-10 Adoption
- Sec. 14-4-20 Copy on file
- Sec. 14-4-30 Amendments
- Sec. 14-4-40 Purpose
- Sec. 14-4-50 Compliance required

Article 5 Energy Conservation Code

- Sec. 14-5-10 Adoption
- Sec. 14-5-20 Copy on file
- Sec. 14-5-30 Amendments
- Sec. 14-5-40 Violation; penalty

Article 6 Dangerous Building Code

- Sec. 14-6-10 Title
- Sec. 14-6-20 Purpose
- Sec. 14-6-30 Scope
- Sec. 14-6-40 Alterations, additions and repairs
- Sec. 14-6-50 Enforcement, generally
- Sec. 14-6-60 Definitions
- Sec. 14-6-70 Designation of dangerous buildings
- Sec. 14-6-80 Notice and orders of Authorized Official generally
- Sec. 14-6-90 Recordation of notice and order
- Sec. 14-6-100 Repair, vacation and demolition
- Sec. 14-6-110 Notice to vacate
- Sec. 14-6-120 Appeal, generally
- Sec. 14-6-130 Enforcement of order, generally
- Sec. 14-6-140 Performance of work of repair or demolition
- Sec. 14-6-150 Recovery of cost of repair or demolition

Article 7 Miscellaneous Provisions
Sec. 14-7-10 Property repairs

Appendix
Appx. 14-A Building and Permit Fees

ARTICLE 1

Building Code

Sec. 14-1-10. Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the building code of the City, by reference thereto, the *International Building Code*, 2003 edition, together with all appendices and tables thereto, published by the International Code Council, 523 Leesburg Pike, Suite 600, Falls Church, Virginia, 22041, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code includes comprehensive provisions and standards regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structures for the purpose of protecting the public health, safety and general welfare. (Ord. 779 §1, 2005; Ord. 811 §1, 2009)

Sec. 14-1-20. Certification and copy on file.

At least one (1) copy of the *International Building Code*, certified by the City Clerk to be a true copy, has been and is now on file in the office of the City Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Clerk at a moderate price. (Prior code 4-27; Ord. 779 §§1, 7, 2005; Ord. 811 §1, 2009)

Sec. 14-1-30. Amendments.

The code adopted herein is hereby modified by the following amendments:

(1) Section 108.2, Permit Fees, is hereby deleted. Fees applicable to the code adopted herein are set forth in Appendix 14-A attached to this Chapter.

(2) Section 1608.1, shall be amended by changing the ground snow load to 30 pounds per square foot. (Ord. 779 §2, 3, 2005; Ord. 811 §1, 2009)

Sec. 14-1-40. Application.

This Article shall apply to building and construction projects within the corporate limits of the City and which this City has jurisdiction and authority to regulate. (Ord. 779 §5, 2005; Ord. 811 §1, 2009)

Sec. 14-1-50. Violation; penalty.

The following penalties herewith set forth in full shall apply to this Chapter unless otherwise provided elsewhere in this Chapter:

(1) It is unlawful for any person to violate any of the provisions of the codes adopted in this Chapter.

(2) Every person convicted of a violation of any provision adopted in this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. (Ord. 779 §4, 2005; Ord. 811 §1, 2009)

ARTICLE 2

Residential Code

Sec. 14-2-10. Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the building code of the City, by reference thereto, the *International Residential Code*, 2003 edition, together with all appendices and tables thereto, published by the International Code Council, Inc., 5360 South Workman Mill Road, Whittier, CA 90601-2298, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code includes comprehensive provisions and standards regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structures for the purpose of protecting the public health, safety and general welfare. (Ord. 779 §1, 2005; Ord. 811 §1, 2009)

Sec. 14-2-20. Certification and copy on file.

At least one (1) copy of the *International Residential Code*, certified by the City Clerk to be a true copy, has been and is now on file in the office of the City Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Clerk at a moderate price. (Prior code 4-27; Ord. 779 §§1, 7, 2005; Ord. 811 §1, 2009)

Sec. 14-2-30. Amendments.

The code adopted herein is hereby modified by the following amendment: Section 108.2, Permit Fees, is hereby deleted. Fees applicable to the code adopted herein are set forth in Appendix 14-A attached to this Chapter. (Ord. 811 §1, 2009)

Sec. 14-2-40. Application.

This Article shall apply to building and construction projects within the corporate limits of the City and which this City has jurisdiction and authority to regulate. (Ord. 779 §5, 2005; Ord. 811 §1, 2009)

ARTICLE 3

Plumbing Code

Sec. 14-3-10. Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is hereby adopted by reference the *Colorado Plumbing Code* as adopted and amended from time to time by the State of Colorado. The subject matter of the adopted code includes comprehensive regulations governing materials, installation methods and other matters pertaining to plumbing for the purpose of protecting the public health, safety and general welfare. (Prior code 4-46; Ord. 811 §1, 2009)

Sec. 14-3-20. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 811 §1, 2009)

Sec. 14-3-30. Purpose and scope.

The subject matter of the code adopted in Section 14-3-10 above includes comprehensive provisions and standards regulating all aspects of plumbing including requirements for plumbing materials, as well as International Association of Plumbing and Mechanical Officials' standards for the erection, installation, alteration, addition, repair, relocation, replacement, maintenance or use of any plumbing systems for the purpose of protecting the public health, safety and general welfare. (Prior code 4-47)

Sec. 14-3-40. Permit required.

Every plumber, before installing any plumbing within the City, except in a case of repairs consisting of mending leaks, cleaning and thawing pipes, shall obtain from the Utility Department a permit for such work. No plumbing already in use shall be altered or reconstructed except as provided in this Article. No plumbing shall be installed within the City, except in accordance with the Plumbing Code and regulations adopted in Section 14-3-10 above. (Prior code 4-49; Ord. 811 §1, 2009)

Sec. 14-3-50. Application.

This Article shall apply to building and construction projects within the corporate limits of the City and which this City has jurisdiction and authority to regulate. (Ord. 779 §5, 2005; Ord. 811 §1, 2009)

ARTICLE 4

Mechanical Code

Sec. 14-4-10. Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the mechanical code for the City, by reference thereto, the *International Mechanical Code*, 2003 edition, together with all appendices and tables thereto, published by the International Code Council, Inc., 5360 South Workman Mill Road, Whittier, CA 90601-2298. The subject matter of the adopted code includes comprehensive provisions and standards relating to the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling and refrigeration systems, incinerators or other miscellaneous heat-producing appliances within the City for the purpose of protecting the public health, safety and general welfare. (Ord. 779 §1, 2005; Ord. 811 §1, 2009)

Sec. 14-4-20. Copy on file.

At least one (1) copy of the International Mechanical Code, certified to be a true copy, has been and is now on file in the office of the City Clerk and may inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale through the office of the City Clerk at a moderate price. (Ord. 779 §§1, 7, 2005; Ord. 811 §1, 2009)

Sec. 14-4-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 811 §1, 2009)

Sec. 14-4-40. Purpose.

The City is in need of regulation of installation of heating, ventilating, cooling and refrigeration systems within the City. The state regulation thereof needs supplementing by the City, the code adopted in Section 14-4-10 above is an appropriate regulation in the matter, and licensing of installers and maintenance contractors is an appropriate way to regulate the industry. (Prior code 4-54)

Sec. 14-4-50. Compliance required.

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, or permit the same to be done, contrary to or in violation of any of the provisions of the code adopted by reference in this Article. (Prior code 4-56)

ARTICLE 5

Energy Conservation Code

Sec. 14-5-10. Adoption.

Pursuant to Pursuant to Title 31, Article 16, Part 2, C.R.S., there is hereby adopted the *International Energy Conservation Code*, 2006 edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th floor, as the Energy Conservation Code of the City for regulating and governing energy-efficient building envelopes and installation of energy-efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Energy Conservation Code. (Ord. 804 §1, 2008; Ord. 811 §1, 2009)

Sec. 14-5-20. Copy on file.

One (1) copy of the *International Energy Conservation Code* is on file in the office of the City Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. (Ord. 811 §1, 2009)

Sec. 14-5-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 811 §1, 2009)

Sec. 14-5-40. Violation; penalty.

The following penalties herewith set forth in full, shall apply to this Article:

(1) It is unlawful for any person to violate any of the provisions of the code adopted in this Article.

(2) Every person convicted of a violation of any provision of this Article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or incarceration not exceeding ninety (90) days, or by both such fine and incarceration.

(3) Each day of continued violation of this Article shall be considered a separate offense. (Ord. 804 §4, 2008; Ord. 811 §1, 2009)

ARTICLE 6

Dangerous Building Code

Sec. 14-6-10. Title.

This Article shall be known as the Code for the Abatement of Dangerous Buildings, may be cited as such and will be referred to herein as the "Dangerous Building Code." (Prior code 4-30)

Sec. 14-6-20. Purpose.

(a) It is the purpose of the adopted Code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code or otherwise available by 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 and may be required to be repaired, vacated or demolished.

(b) It is not the purpose of the adopted Code to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of the adopted Code. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-30. Scope.

The provisions of the adopted Code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction. (Prior code 4-30)

Sec. 14-6-40. Alterations, additions and repairs.

All buildings or structures which are required to be repaired under the provisions of the adopted code shall be subject to the provisions of Article 1 of this Chapter. (Prior code 4-30)

Sec. 14-6-50. Enforcement, generally.

(a) Administration. The concurrence of two (2) of the following "Authorized Officials," City Manager, Chief of Police and Building Inspector shall be necessary in order to enforce the provisions of the adopted Code.

(b) Inspections. Authorized Officials are hereby empowered to make such inspections and take such actions as may be required to enforce the provisions of the adopted Code.

(c) Right of entry. When it is necessary to make an inspection to enforce the provisions of the adopted Code, or when the Authorized Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of the adopted Code which makes the building or premises unsafe, dangerous or hazardous, the Authorized Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by the adopted Code, provided that if such building or premises is occupied, credentials shall be presented to the occupant and entry requested. If such building or premises are unoccupied, the Authorized Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry, absent a bona fide emergency. If entry is refused, the Authorized Official shall have recourse to the remedies provided by law to secure entry. Such officials may force entry into the premises where an emergency is reasonably observed to exist or where exigent circumstances dictate. *Authorized Official* shall include the officers above named and their authorized inspection personnel.

(d) Abatement of dangerous buildings. All buildings or portions thereof which are determined, after inspection, by the Authorized Official, to be dangerous, as defined in the adopted Code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 14-6-100 of this Article.

(e) Inspection of work. All buildings or structures, within the scope of the adopted Code, and all construction or work for which a permit is required, shall be subject to inspection by the Authorized Official in accordance with and in the manner provided by the adopted Code.

(f) Appeals. The Board of Adjustment is hereby authorized to hear and decide appeals of orders, decisions or determinations made by the Authorized Official relative to the application and interpretations of the adopted Code and in accordance with procedures established for the Board of Adjustment. The decision of the Board of Adjustment shall be final subject to review by the District Court of the 12th Judicial District and in accordance with the provisions of this Code and Rule 106 of the Colorado Rules of Civil Procedure.

(g) Violations and penalty. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause to permit the same to be done in violation of the adopted Code. Any person violating any provision of the adopted Code shall be punished as provided in Section 14-1-50 of this Chapter. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-60. Definitions.

For the purpose of the adopted Code, certain terms, phrases, words and their derivatives shall be construed as specified in either this Section or as specified in the building code as adopted in Section 14-1-10 of this Chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986*, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

Building code is the International Building Code promulgated by the International Code Council, as adopted by the City.

Dangerous building is any building or structure deemed to be dangerous as hereinafter provided.
(Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-70. Designation of dangerous buildings.

(a) For the purpose of this Article, any building or structure which has any or all of the conditions or defects described below, 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 the building's occupants are endangered:

(1) 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.

(2) Whenever the walking surface of any 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.

(3) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half ($1\frac{1}{2}$) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or 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 building code for new buildings of similar structure, purpose or location.

(5) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged or to collapse and thereby injure persons or damage property.

(6) Whenever any portion of a building, any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half ($\frac{1}{2}$) of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.

(7) Whenever any portion thereof has wracked, 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.

(8) Whenever the building or structure, or any portion thereof, because of: a) dilapidation, deterioration or decay; b) faulty construction; c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; d) the deterioration, decay or inadequacy of its foundation; or e) any other cause; is likely to partially or completely collapse.

(9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(10) 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.

(11) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

(12) 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: a) an attractive nuisance to children; b) a harbor for vagrants, criminals; or c) as to enable persons to resort thereto for the purpose of committing unlawful acts.

(13) Whenever any building or structure has been construed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the City, as specified in the building code or of any law or ordinance of the State or City relating to the condition, location or structure of buildings.

(14) 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: a) strength; b) fire-resisting qualities or characteristics; or c) 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.

(15) Whenever a building or structure, used or intended to be 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.

(b) Any structure within the City shall have active utility services in place, including water, sewer, heat and electricity. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-80. Notice and orders of Authorized Official generally.

(a) Commencement of proceedings. When the Authorized Official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the Authorized Official shall commence proceedings to cause the repair, vacation or demolition of the building.

(b) Notice and order. The Authorized Official shall issue a notice and order directed to the record owner of the building and/or the person in possession, if the record owner cannot be reasonably ascertained or located. The notice and order shall contain:

(1) The street address and a legal description sufficient for identification of the premises upon which the building is located.

(2) A statement that the Authorized 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 14-6-70 above.

(3) A statement of the action required to be taken as determined by the Authorized Official. If the Authorized Official has determined that the building or structure must be repaired, the order shall require that all permits be secured therefor and the work be physically commenced no later than thirty (30) days from the date of service of the notice and order. If an appeal of the notice and order is timely filed in accordance with Section 14-6-120 of this Article, no action need be taken until such time as the appeal process is completed. All permits must be secured and work must be commenced within sixty (60) days of the date when no further appeal is permitted by law.

(4) Statements advising that, if required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Authorized Official: a) will order the building vacated and posted to prevent further occupancy until the work is completed; and b) may proceed to cause the work to be done and charge the costs thereof against the property of its owner.

(5) Statements advising: a) 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 Authorized Official to the Board of Adjustment, provided that the appeal is made in writing as provided in this Code and filed with the Board of Adjustment within thirty (30) days from the date of service of such notice and order; b) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

(c) Service of notice and order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and/or the person in possession if the record owner cannot be reasonably ascertained or located. If the property has been abandoned, posting of notice upon the property for ten (10) days continuously shall serve as constructive notice. The failure of the Authorized Official to serve any person required herein to be served shall not invalidate any proceedings hereunder or relieve any such person from any duty or obligation imposed by the provisions of this Article.

(d) 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 or her last known address. 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 upon the date of mailing. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-90. Recordation of notice and order.

If compliance is not had with the order within the time specified therein and no appeal has been properly and timely filed, the Authorized Official shall file in the office of the City Clerk a certificate describing the property and certifying: (1) that the building is a dangerous building; and (2) that the owner has been so notified. Whenever 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 in the certificate, the Authorized Official shall file a new certificate with the City Clerk certifying that the building has been demolished or all required corrections have been made so that the building is not longer dangerous, whichever is appropriate. (Prior code 4-30)

Sec. 14-6-100. Repair, vacation and demolition.

The following standards shall be followed by the Authorized Official (and by the Board of Adjustment if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

(1) Any building declared a dangerous building under the adopted Code shall be made to comply with one (1) of the following within one hundred twenty (120) days following such declaration or determination:

a. The building shall be repaired in accordance with the current building code or current code applicable to the type of standard conditions requiring repair;

b. The building shall be demolished at the option of the building owner; or

c. In the interim, if the building does not constitute an immediate danger to the life, limb, property or safety of the public, it shall be vacated, secured and maintained against entry. Thereafter, if repair or demolition and removal is not performed by the owner in accordance with Paragraphs a. and b. above, the City shall cause the repair or demolition and removal of the building at the expense of the owner.

(2) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety to the public, it shall be ordered vacated. If the building or structure is occupied on a full-time basis at the time it is ordered vacated, ten (10) days shall be allowed for the occupants thereof to file an appeal in accordance with Section 14-6-120 below. If no appeal is filed, the occupants may be forcibly removed at the expiration of the ten-day period. If an appeal is timely filed, an expedited hearing will be set by the Board of Adjustment to consider whether the conditions of the building are so immediately dangerous to the occupants' health and safety as to warrant their immediate expulsion. The Board of Adjustment may set a reasonable time for the occupants to vacate the building or may set such terms and conditions as it may deem necessary for continued occupancy of the building. In making its determination, the Board of Adjustment may take into consideration such factors as, without limitation, the weather conditions, the ability of the occupants to find other shelter, the age and health of the occupant, and the income level of the occupants. (Prior code 4-30; Ord. 811 §1, 2009; Ord. 835, 2011)

Sec. 14-6-110. Notice to vacate.

(a) Posting. Every notice to vacate shall, in addition to being served as provided in Section 14-6-80 of this Article, 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 an ordinance violation to occupy this building or to remove or deface this Notice.
Authorized Official City of Monte Vista, Colorado.

(b) Compliance. Whenever such notice is posted, the Authorized Official shall include a notification thereof in the notice and order issued under Subsection 14-6-80(b) above reciting the emergency and specifying the condition, 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 a permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed and a certificate of occupancy has been issued pursuant to the provisions of the building code. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-120. Appeal, generally.

(a) Form of appeal. Any person entitled to service under Subsection 14-6-80(c) of this Article may appeal from any notice and order or any action of the Authorized Official under the adopted Code by filing at the office of the City Clerk a written appeal containing:

(1) A heading in the words: "Before the Board of Adjustment of the City of Monte Vista, Colorado."

(2) A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.

(3) 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.

(4) 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 appellant.

(5) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed that the protested order or action should be reversed, modified or otherwise set aside.

(6) The signatures of all parties named as appellants and their official mailing addresses.

(7) The verification (by declaration under penalty of perjury) of at least one (1) appellant as to the truth of the matters stated in the appeal.

(8) The appeal shall be filed within thirty (30) days from the date of the service of such order or action of the Authorized Official; provided, however, that if the building or structure is declared by the Authorized Official to be in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 14-6-110(a) above, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the Authorized Official.

(b) Processing the appeal. Upon receipt of any appeal filed pursuant to this Section, the Authorized Official shall present it at the regular or special meeting of the Board of Adjustment.

(c) Scheduling and noticing appeal for hearing. As soon as practicable after receiving the written appeal, the Board of Adjustment shall establish a date, time and place for the hearing of the appeal by the Board. Such date shall not be less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the City Clerk. Written notice of the date, time and place of the hearing shall be given to each appellant by the City Clerk at least ten (10) days prior to the date of the hearing, 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 the address shown on the appeal.

(d) Effect of failure to appeal. Failure of any person to file an appeal in accordance with the provisions of this Article shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

(e) Scope of hearing on appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(f) Staying of order under appeal. Enforcement of any notice and order of the Authorized Official issued under the adopted Code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-130. Enforcement of order, generally.

(a) Compliance. After any order of the Authorized Official or the Board of Adjustment made pursuant to the adopted Code has 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 violation of this Code.

(b) Failure to obey order. If after any order of the Authorized Official or Board of Appeals made pursuant to the adopted Code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Authorized Official may: (1) cause such person to be prosecuted under Subsection (a) above; and/or (2) institute any appropriate action to abate such building as a public nuisance under the adopted Code.

(1) The Authorized 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 an ordinance violation to occupy this building or to remove or deface this Notice.

Authorized Official of the City of Monte Vista, 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 Authorized Official have been completed and a certificate of occupancy has been issued pursuant to the provisions of the building code.

(3) The Authorized 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 the building to be sold and demolished or demolished and the materials, rubble and debris 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 Article. 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 lawfully entitled thereto.

a. Extension of time to perform work. Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed

additional time, the Authorized Official may 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 Authorized Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Authorized 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 the time to appeal the notice and order.

b. Interference with repair or demolition work prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or 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 this Article or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, 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 of repairing, vacating and repairing or demolishing any 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. (Prior code 4-30; Ord. 811 §1, 2009)

Sec. 14-6-140. Performance of work of repair or demolition.

(a) Procedure. When any work of repair or demolition is to be done pursuant to this Article, the Authorized Official shall issue an order therefor to the Director of Public Works, and the work shall be accomplished by personnel of the City or by private contract under the direction of said Director. Plans and specifications therefor may be prepared by said Director, or the Director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

(b) Costs. The cost of such work shall be paid from the Repair and Demolition 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 legislative body of the City shall determine is appropriate. (Prior code 4-30)

Sec. 14-6-150. Recovery of cost of repair or demolition.

(a) Account of expense, filing of report. The Director of Public Works shall keep an itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of Paragraph 14-6-130(b)(3) of this Article. Upon the completion of the work of repair or demolition, the 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 Subsection 14-6-80(c) of this Article.

(b) Protests and objections. Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk within ten (10) days from service of notice. 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 of receipt. The Clerk shall present such protests or objections to the Board of Adjustment, and no other protests or objections shall be considered.

(c) Hearing of protests. The Board of Adjustment shall conduct a hearing within thirty (30) days from the receipt of the protest, may make such revision, correction or modification in the report or the charge as it may deem just; and, when the Board of Adjustment 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 Board of Adjustment on the report and the charge and on all protests or objections shall be final and conclusive, subject to district court review.

(d) Personal obligation or special assessment.

(1) General. The Board of Adjustment may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

(2) Personal obligation. If the Board of Adjustment orders that the charge be made 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.

(3) Special assessment. If the Board of Adjustment orders that the charge shall be assessed against the property, it shall confirm the assessment and cause the same to be recorded on the assessment roll; and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

(e) Contest. 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.

(f) Authority for installment payment of assessments with interest. The Board of Adjustment, in its discretion, may determine that assessments in amounts of five hundred dollars (\$500.00) or more shall be payable in up to, but not to exceed, five (5) equal annual installments. The Board of Adjustment's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

(g) Lien of assessment.

(1) Priority. Immediately upon its being placed on the assessment roll, 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 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 property taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

(2) 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 seven percent (7%) per annum from and after said date.

(3) Report to County Assessor and County Treasurer; addition of assessment to tax bill. After confirmation of the report, certified copies of the assessment shall be given to the City Assessor and the City Treasurer/Finance Director, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(4) Collection of assessment; penalties for foreclosure. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties, procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment. If the Board of Adjustment has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedures for sale as provided for ordinary property taxes.

(5) Repayment of Repair and Demolition Fund. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the Finance Director, who shall credit the same to the Repair and Demolition Fund. (Prior code 4-30; Ord. 811 §1, 2009)

ARTICLE 7

Miscellaneous Provisions

Sec. 14-7-10. Property repairs.

A property owner may institute any type of repair, alteration, construction or reconstruction within the confines of his or her own residential property boundaries in accordance with the provisions of the state statutes and appropriate rules and regulations of state regulatory agencies; however, any property or residences that are sold or rented or is a commercial or industrial property must have all work performed by a licensed contractor and a license and building permit must be obtained in accordance with this Section. Physical residence by the owner in the premises for a period of six (6) months prior to initiating repairs will be considered prima facie evidence as owner occupation. (Prior code 4-1)

APPENDIX 14-A
BUILDING AND PERMIT FEES
TABLE OF CONTENTS

(To Be Provided at a Later Date)

APPENDIX 14-A

Building and Permit Fees

(To Be Provided at a Later Date)

CODE COMPARISON TABLE

Prior Code	New Code
1-1.....	1-1-20
1-2.....	1-2-10—1-2-30
	1-2-50, 1-3-30
1-3.....	1-3-10
1-4.....	1-3-20
1-5.....	1-3-20
1-6.....	1-3-20
1-7.....	1-1-30
1-8.....	1-1-60
1-9.....	1-3-60
1-10.....	1-1-70
1-11.....	1-3-70
1-12.....	1-3-80
1-13.....	1-3-110
1-14.....	1-4-10, 1-4-20
1-15.....	1-3-120
1-16.....	1-4-20
2-1.....	1-6-10
2-91.....	2-10-10
2-92.....	Deleted
2-93.....	2-10-10
2-94.....	2-10-20
2-95.....	2-10-30
2-96.....	2-10-40, 2-10-50
2-97.....	2-10-60
2-98.....	2-10-70
2-121.....	2-9-10
2-122.....	2-9-20
2-123.....	Deleted
2-124.....	2-9-20
2-125.....	2-9-30
2-156.....	2-3-30
2-157.....	2-3-30
2-158.....	2-3-30
2-171.....	Deleted
2-172.....	Deleted
2-181.....	2-6-10
2-182.....	2-6-30
2-183.....	2-6-40
2-184.....	2-6-50
2-185.....	2-6-60
2-186.....	2-6-70
2-187.....	2-6-80
2-211.....	2-5-10
2-212.....	2-3-40, 2-5-30
2-213.....	2-5-40
2-214.....	2-5-50
2-215.....	Deleted
2-216.....	Deleted
2-217.....	Deleted

2-218.....	2-5-50
2-219.....	2-5-60
2-220.....	2-5-80
2-221.....	2-5-90
2-241.....	2-1-20
2-242.....	2-1-30
2-251.....	2-8-10—2-8-30
2-252.....	2-8-40
2-261.....	3-4-10
2-262.....	Deleted
2-263.....	Deleted
2-264.....	Deleted
2-265.....	Deleted
2-266.....	Deleted
2-267.....	3-4-20
2-268.....	Deleted
2-269.....	Deleted
2-270.....	Deleted
2-271.....	Deleted
2-272.....	Deleted
2-273.....	Deleted
3-1.....	6-1-10
3-2.....	6-1-20
3-3.....	6-1-30
3-4.....	8-14-20
3-5.....	8-14-30
3-31.....	6-2-10
3-32.....	6-2-20
3-34.....	8-14-20
3-46.....	6-2-30
3-47.....	6-2-40
3-48.....	6-2-50
3-49.....	6-2-60
3-50.....	6-2-70
3-51.....	6-2-80
3-52.....	6-2-90
3-53.....	6-2-100
3-66.....	6-3-10
3-67.....	6-3-20
3-68.....	6-3-30
3-69.....	6-3-40
3-70.....	6-3-50
3-91.....	6-4-10
3-92.....	6-4-20
4-1.....	14-6-10
4-26.....	Deleted
4-27.....	14-1-20, 14-2-20
4-28.....	Deleted
4-29.....	Deleted
4-30.....	14-6-10—14-6-150
4-46.....	14-3-10
4-47.....	14-3-30
4-48.....	Deleted

4-49.....	14-3-40
4-50.....	Deleted
4-51.....	Deleted
4-52.....	Deleted
4-53.....	Deleted
4-54.....	14-4-40
4-55.....	Deleted
4-56.....	14-4-50
4-76.....	Deleted
4-77.....	Deleted
4-78.....	Deleted
4-79.....	Deleted
4-96.....	Deleted
4-97.....	Deleted
4-98.....	Deleted
4-99.....	Deleted
4-1-136.....	4-1-20
4-1-137.....	4-1-40
4-1-138.....	4-1-50, 4-1-60
4-1-139.....	4-1-70
4-1-140.....	4-1-80
4-1-171.....	4-2-20
4-1-172.....	4-2-30
4-1-173.....	4-2-50
4-1-174.....	4-2-60
4-1-175.....	4-2-70
4-1-176.....	4-2-80
4-1-177.....	4-2-90
4-1-178.....	4-2-100
4-1-179.....	4-2-110
4-1-180.....	4-2-150
5-1.....	2-7-10
5-2.....	2-7-20
5-3.....	2-7-30
5-4.....	2-7-40
5-5.....	2-7-50
5-6.....	2-7-60
5-7.....	2-7-70
6-51.....	3-1-40
6-71.....	Deleted
6-72.....	Deleted
6-91.....	3-2-10
6-92.....	3-2-20
6-93.....	3-2-30
6-94.....	3-2-40
6-111.....	3-2-110
6-112.....	3-2-120
6-113.....	3-2-130
6-114.....	3-2-140
6-115.....	3-2-150
6-116.....	3-2-160
6-117.....	3-2-170
6-196.....	3-3-10

6-197.....	3-3-20
6-198.....	3-3-30
6-199.....	Deleted
6-200.....	3-3-40
6-201.....	3-3-50
6-202.....	3-3-60
6-203.....	3-3-70
6-204.....	3-3-80
6-205.....	3-3-90
7-76.....	Deleted
7-77.....	Deleted
7-78.....	Deleted
7-79.....	Deleted
7-80.....	Deleted
7-81.....	Deleted
7-82.....	Deleted
7-83.....	Deleted
7-84.....	Deleted
7-85.....	Deleted
8-1.....	12-22-10
8-2.....	12-22-20
8-3.....	12-22-30
8-4.....	12-22-40
8-5.....	12-22-50
8-6.....	12-22-60
8-7.....	12-22-70
8-36.....	12-22-110
8-37.....	12-22-120
8-38.....	12-22-130
8-39.....	12-22-140
8-40.....	12-22-150
8-61.....	12-22-210
8-62.....	12-22-220
8-63.....	12-22-230
8-64.....	12-22-240
8-65.....	12-22-250
8-66.....	12-22-260
8-67.....	12-22-270
8-76.....	8-12-10
8-77.....	8-12-20
8-78.....	8-12-30
8-79.....	8-12-40
8-80.....	8-12-50
8-81.....	8-12-60
8-82.....	8-12-70
8-83.....	8-12-100
8-84.....	8-12-80
8-85.....	8-12-90
9-26.....	4-2-10
9-27.....	4-2-40
9-28.....	4-2-40
9-51.....	4-3-10
9-52.....	4-3-20

9-76.....	4-4-10
9-77.....	4-4-20
9-78.....	4-4-30
9-79.....	4-4-40
9-80.....	4-4-50
9-81.....	4-4-60
9-82.....	4-4-70
9-106.....	4-5-10
9-107.....	4-5-20
9-108.....	4-5-30
9-109.....	4-5-40
9-110.....	4-5-50
9-111.....	4-5-60
9-112.....	4-5-70
9-113.....	4-5-80
9-136.....	Deleted
9-137.....	Deleted
9-161.....	4-6-10
9-162.....	4-6-20
9-163.....	4-6-30
9-164.....	4-6-40
9-165.....	4-6-70
9-166.....	4-6-50
9-167.....	4-6-60
9-181.....	4-6-110
9-182.....	4-6-120
9-183.....	4-6-130
9-184.....	4-6-140
9-185.....	4-6-150
9-186.....	4-6-160
9-187.....	4-6-170
9-188.....	4-6-180
9-189.....	4-6-190
9-190.....	4-6-200
9-191.....	4-6-210
9-192.....	4-6-220
9-216.....	Deleted
9-217.....	4-7-10
9-218.....	4-7-20
9-219.....	4-7-30
9-220.....	4-7-40
9-221.....	4-7-50
9-222.....	4-7-60
9-223.....	4-7-70
9-224.....	4-7-80
9-225.....	4-7-90
9-226.....	4-7-100
9-227.....	4-7-110
9-228.....	4-7-120
9-229.....	4-7-130
9-230.....	4-7-140
9-231.....	4-7-150
9-232.....	4-7-160

9-233.....	4-7-170
9-234.....	4-7-180
9-235.....	4-7-190
9-256.....	4-8-10
9-257.....	4-8-20
9-271.....	4-8-110
9-272.....	4-8-120
9-273.....	4-8-130
9-286.....	4-8-210
9-287.....	4-8-220
9-288.....	4-8-230
9-289.....	4-8-240
9-290.....	4-8-250
9-291.....	4-8-260
9-292.....	4-8-270
9-293.....	4-8-280
9-294.....	4-8-290
12-26.....	2-4-10
12-56.....	Deleted
12-57.....	Deleted
12-58.....	Deleted
12-59.....	Deleted
12-60.....	Deleted
12-71.....	Deleted
12-72.....	Deleted
12-73.....	Deleted
12-74.....	Deleted
13-1.....	5-1-10
13-2.....	5-1-50
13-3.....	5-1-60
13-4.....	5-1-80
13-5.....	5-1-70
13-6.....	5-1-90
13-7.....	5-1-100
13-8.....	5-1-110
13-36.....	10-5-10
13-37.....	10-5-20
13-38.....	10-5-30
13-39.....	10-5-40
13-41.....	10-5-50
13-42.....	10-5-60
13-66.....	10-5-70
14-1.....	9-1-10
14-2.....	9-1-20
14-3.....	9-1-30
14-31.....	9-2-10
14-41.....	Deleted
14-42.....	Deleted
14-43.....	9-2-30
14-44.....	9-2-40
14-45.....	9-2-50
14-46.....	9-2-60
14-47.....	9-2-70

14-61.....	9-2-210
14-62.....	9-2-220
14-63.....	9-2-230
14-64.....	9-2-240
14-86.....	9-3-10, 9-3-40
	9-3-60—9-3-150
14-106.....	9-4-10
14-107.....	9-4-20
14-108.....	9-4-30
14-109.....	9-4-40
14-110.....	9-4-50
14-111.....	9-4-60
14-112.....	9-4-70
14-113.....	9-4-80
14-114.....	9-4-90
14-136.....	9-5-10
14-137.....	Deleted
14-138.....	9-5-20
14-139.....	9-5-30
14-140.....	9-5-40
16-1.....	Deleted
16-26.....	7-1-10, 7-1-20
16-27.....	7-1-40
16-28.....	7-1-60
16-29.....	7-1-30
16-30.....	7-1-50
17-1.....	10-1-10
17-2.....	10-1-20
17-21.....	10-3-10
17-22.....	10-3-20
17-23.....	10-3-30
17-24.....	10-3-40
17-25.....	10-3-50
17-26.....	10-3-60
17-27.....	10-3-70
17-28.....	Deleted
17-29.....	10-2-90
17-30.....	10-2-100
17-31.....	10-3-80
17-32.....	10-3-90
17-33.....	10-3-100
17-34.....	10-3-110
17-35.....	10-3-120
17-36.....	10-3-130
17-37.....	10-3-140
17-56.....	10-1-30
17-96.....	10-2-10
17-97.....	10-2-20
17-98.....	10-2-30
17-99.....	10-2-40
17-100.....	10-2-50
17-101.....	10-2-60
17-102.....	Deleted

17-103.....	Deleted
17-104.....	10-2-80

DISPOSITION OF ORDINANCES TABLE

<u>Ord. #</u>	<u>Year</u>	<u>Subject</u>	<u>Section</u>	<u>Disposition</u>
707	1997	Subdivisions		13-3-40
710	1998	Subdivisions		13-1-10, 13-2-30, 13-3-20—13-3-40, 13-4-10, 13-4-110—13-4-150, 13-4-170—13-4-190, 13-4-310, 13-4-320, 13-4-360—13-4-380, 13-5-20, 13-5-40, 13-5-60, 13-5-80, 13-5-90, 13-6-10—13-6-30, 13-6-50, 13-6-60, 13-6-90
723	1999	Subdivisions		13-1-10
770	2004	Collection		10-2-20, 10-2-40, 10-2-70, 10-5-10—10-5-50, 10-5-70
772	2005	City Council provisions		2-2-10—2-2-90, Appx. 2-A
773	2005	Planning and Zoning Commission		2-10-20
775	2005	Offenses	11.01	8-1-10, 8-2-120
			11.02—11.06	8-1-20—8-1-60
			11.25—11.30	8-2-10—8-2-60
			11.32—11.34	8-2-70—8-2-90
			11.35	8-2-140
			11.36, 11.37	8-2-100, 8-2-110
			11.51—11.54	8-3-10—8-3-40
			11.61—11.66	8-4-10—8-4-60
			11.81—11.86	8-4-110—8-4-160
			11.101—11.108	8-4-210—8-4-280
			11.121—11.123	8-5-10—8-5-30
			11.141, 11.142	8-6-10, 8-6-20
			11.143	8-9-50
			11.161—11.169	8-7-10—8-7-90
			11.171	8-7-100
			11.172	8-14-20
			11.191—11.194	8-8-10—8-8-40
			11.201—11.207	8-13-10—8-13-70
			11.221	8-10-20
			11.222	8-10-10, 8-10-30
			11.223	8-10-40
			11.224	8-10-60
776	2005	Subdivisions	11-171	13-1-10
			15-1—15-8	13-2-10—13-2-80
			15-35—15-41	13-3-10—13-3-70
			15-61—15-64	13-4-10—13-4-40

			15-71—15-79	13-4-110—13-4-190
			15-91—15-98	13-4-310—13-4-380
			15-121—15-129	13-5-10—13-5-90
			15-150—15-161	13-6-10—13-6-120
779	2005	Building regulations	1	14-1-10, 14-1-20, 14-2-20, 14-4-10, 14-4-20
			2	14-1-30, Appx 14-A
			3	14-1-30
			4	14-1-50
			5	14-1-40, 14-2-40
			7	14-1-20, 14-2-20, 14-4-20
783	2006	Nuisances		5-1-10, 5-1-40, 5-1-80, 5-1-120, 5-1-140—5-1-170, 5-1-190—5-1-280, 5-2-30—5-2-60, 5-2-100—5-2-130, 8-7-100
784	2006	Cross-connection control	1.1, 1.2	10-4-10, 10-4-20
			2.1—2.18	10-4-30
			3.1, 3.2	10-4-40, 10-4-50
787	2006	Dangerous dogs	1, 2	6-2-10
788	2006	Smoking		8-11-10—8-11-70
789	2006	Zoning	18-1—18-11	12-1-10—16-1-110
			18-31—18-40	2-11-10—2-11-100
			18-41—18-47	12-2-10—12-2-70
			18-60—18-92	12-3-10—12-3-330
			18-101—18-111	12-4-10—12-4-110
			18-131—18-142	12-5-10—12-5-120
			18-151—18-160	12-6-10—12-6-100
			18-176—18-185	12-7-10—12-7-100
			18-201—18-210	12-8-10—12-8-100
			18-226—18-235	12-9-10—12-9-100
			18-251—18-260	12-10-10—12-10-100
			18-261—18-270	12-11-10—12-11-100
			18-276—18-285	12-12-10—12-12-100
			18-301—18-309	12-13-10—12-13-90
			18-326—18-335	12-14-10—12-14-100
			18-351—18-360	12-15-10—12-15-100
			18-361	12-15-210
			18-362	12-15-220—15-15-340
			18-363	12-15-350—12-15-370
			18-364	12-15-380, 12-15-390
			18-365	12-15-400
			18-366—18-370	12-16-10—12-16-50
			18-372—18-375	12-16-110—12-16-140
			18-376	12-16-210
			18-377	12-16-220
			18-378—18-381	12-17-10—12-17-40
			18-384—18-389	12-17-50—12-17-100
			18-391—18-393	12-17-120—12-17-140
			18-394	12-21-10—12-21-60
			18-395	12-17-150

			18-396—18-409	12-18-10—12-18-140
			18-526—18-538	12-19-10—12-19-130
			18-561—18-571	12-20-10—12-20-110
791	2007	Offenses	11.01	8-1-10, 8-2-120
			11.02—11.06	8-1-20—8-1-60
			11.25—11.30	8-2-10—8-2-60
			11.31	Deleted
			11.32—11.34	8-2-70—8-2-90
			11.35	8-2-140
			11.36	8-2-100
			11.37	8-2-110
			11.51—11.54	8-3-10—8-3-40
			11.61—11.66	8-4-10—8-4-60
			11.81—11.86	8-4-110—8-4-160
			11.101—11.108	8-4-210—8-4-280
			11.121—11.123	8-5-10—8-5-30
			11.141, 11.142	8-6-10, 8-6-20
			11.143	8-9-50
			11.161—11.169	8-7-10—8-7-90
			11.170, 11.171	8-7-100
			11.172	8-14-20
			11.191—11.194	8-8-10—8-8-40
			11.201—11.207	8-13-10—8-13-70
			11.221	8-10-20
			11.222	8-10-10, 8-10-30
			11.223	8-10-40
			11.224	8-10-60
792	2007	Zoning	1	12-5-120
			2	12-1-10
796	2007	Nuisances	A	5-1-270
			B	12-17-110
797	2007	Subdivision regulations		13-3-10
801	2008	Offenses	A	8-4-50—8-4-80, 8-4-110
			B	1-4-20
802	2008	Municipal Court		2-5-50
804	2008	Energy Conservation Code	1	14-5-10
			4	14-5-40
805	2008	Zoning regulations	1	12-1-10
			2	12-5-120
			3	12-17-90, 12-17-140
			4	12-17-20
806	2008	Model Traffic Code		7-1-30
809	2009	Surcharge imposed for animal control		2-5-50
810	2009	Court costs		2-5-50
811	2009	Adopts Municipal Code	1	1-1-10—1-1-80, 1-2-10, 1-2-30—1-2-50, 1-3-10, 1-3-30—1-3-110, 1-4-10—1-4-60, 1-5-10—1-5-30, 2-1-10—2-1-30, 2-2-10, 2-2-909, 2-3-10—2-3-40, 2-4-10, 2-5-10—2-5-40, 2-5-60—2-5-90, 2-6-20—2-6-50, 2-7-40, 2-8-20, 2-8-30, 2-10-10, 2-10-20, 2-10-40, 2-10-50, 2-

11-20, 2-11-100, 3-1-10—3-1-30, 3-2-110, 3-3-10, 3-3-20, 3-3-50, 3-3-70, 3-4-10, 3-4-20, 4-1-10—4-1-40, 4-1-60, 4-1-70, 4-2-40, 4-2-60—4-2-140, 4-4-10, 4-4-70, 4-6-10, 4-6-50, 4-6-180, 4-7-90—4-7-110, 4-7-150, 4-8-130, 4-8-210, 4-8-220, 5-1-10—5-1-40, 5-1-60, 5-1-70, 5-1-130, 5-1-160—5-1-180, 5-1-270—5-1-290, 5-2-10, 5-2-20, 5-2-40, 5-2-50, 5-2-130, 6-1-10, 6-2-10, 7-1-10—7-1-60, 8-1-10, 8-2-60, 8-2-130, 8-4-30—8-4-50, 8-4-70, 8-4-220—8-4-240, 8-6-10, 8-7-60, 8-7-100, 8-8-30, 8-8-40, 8-9-10—8-9-50, 8-10-10, 8-10-50, 8-11-40, 8-11-70, 8-13-40, 8-14-10, 8-14-20, 9-1-10, 9-1-20, 9-2-20, 9-2-30, 9-2-50—9-2-70, 9-2-210, 9-2-220, 9-3-10—9-3-30, 9-3-50, 9-3-70, 9-3-90, 9-3-140, 9-3-150, 9-4-20, 9-4-30, 9-4-50, 9-5-10, 9-5-40, 9-6-10—9-6-30, 10-1-10—10-1-30, 10-2-10, 10-2-20, 10-2-40—10-2-90, 10-3-10, 10-3-20, 10-4-30, 10-4-50, 10-5-10, 10-5-30, 10-5-70, 11-1-10—11-1-30, 12-1-10, 12-1-90, 12-2-10—12-2-30, 12-3-50, 12-3-60, 12-3-90, 12-3-110, 12-3-130, 12-3-150, 12-3-170, 12-3-180, 12-5-120, 12-15-320, 12-15-380—12-15-400, 12-16-110, 12-16-220, 12-17-30, 12-17-110, 12-17-120, 12-18-60, 12-19-10, 12-19-80, 12-19-100, 12-19-110, 12-20-20, 12-20-40, 12-20-60, 12-21-10, 12-21-50, 12-21-60, 12-22-10, 12-22-130, 12-22-150, 13-1-10, 13-2-80, 13-3-30—13-3-70, 13-4-10, 13-4-120, 13-4-150, 13-4-170, 13-4-310, 13-4-360, 13-4-380, 13-5-50, 13-6-10, 13-6-30, 13-6-50—13-6-90, 14-1-10—14-1-60, 14-2-10—14-2-40, 14-3-10—14-3-50, 14-4-10—14-4-30, 14-5-10—14-5-80, 14-5-100—14-5-140. 14-6-20, 14-6-50—14-6-80, 14-6-100—14-6-130, 14-6-150

812	2009	Municipal Judges	2-5-30
813	2009	Temporary uses	12-17-20
817	2009	Dog license; penalty	6-2-30
818	2010	Misuse of mobile communications device	7-1-30
820	2010	Historic Protection Overlay District	12-16-10—12-16-50,
		Added	12-16-60—12-16-105
822	2010	Controlled substances	A 8-10-20, 12-21-55
823	2010	Historic Protection Overlay District	12-16-40
826	2011	Planning and Zoning Commission	2-10-20
828	2011	Historic Protection Overlay District	12-16-100, 12-16-105
832	2011	Flood prevention and protection	Added 12-22-1—12-22-4
			12-22-10, 12-22-30,
		Added	12-22-80
			12-22-130
		Added	12-22-280, 12-22-290
833	2011	Municipal Court	2-5-50
834	2011	Alcoholic beverages	4-2-40
			Appx 2-A
		Added	Appx 2-A-1
835	2011	Dangerous Building Code	14-6-100
837	2011	Minors	Rpld/Rnctd 8-8-40
		Added	8-8-50

838	2012	Optional premises, alcoholic beverages	4-2-120
840	2013	Noise	8-7-100
843	2012	Sewer Activity Enterprise	Added Chap. 10, Art. 6

TABLE OF UP-TO-DATE PAGESPage No. Supp. No.

Title Page	4
iii	4
v	OC
vii, viii	4
C-i	OC
C-iii, C-iv	OC
C-v	OC
C-1, C-2	OC
C-3, C-4	1
C-5, C-6	OC
C-7, C-8	OC
C-9, C-10	OC
C-11, C-12	OC
C-13, C-14	OC
C-15, C-16	OC
C-17, C-18	OC
C-19	OC
CI-1, CI-2	OC
CI-3, CI-4	OC
M-i	OC
M-iii	4
M-v, M-vi	OC
M-vii, M-viii	OC
M-ix, M-x	OC
M-xi, M-xii	OC
M-xiii, M-xiv	OC
M-xv, M-xvi	OC
M-xvii, M-xviii	OC
M-xix, M-xx	OC
M-xxi	OC
M-xxiii, M-xxiv	OC
M-xxv, M-xxvi	4
1-i	OC
1-1, 1-2	OC
1-3, 1-4	OC
1-5, 1-6	OC
1-7, 1-8	OC
1-9	OC
2-i, 2-ii	3
2-1, 2-2	OC
2-3, 2-4	3
2-5, 2-6	3
2-6a	3
2-7, 2-8	OC
2-9, 2-10	OC
2-11, 2-12	OC
2-13, 2-14	2
2-15	OC
Appx 2-A-i	3
Appx 2-A-1	3
Appx 2-A-3, 2-A-4	3
Appx 2-B-i, 2-B-ii	OC
Appx 2-B-1, 2-B-2	OC
Appx 2-B-3, 2-B-4	OC
Appx 2-B-5, 2-B-6	OC
Appx 2-B-7, 2-B-8	OC

Appx 2-B-9, 2-B-10.....	OC
Appx 2-B-11, 2-B-12.....	OC
Appx 2-B-13.....	OC
Appx 2-C-i.....	OC
Appx 2-C-1, 2-C-2.....	1
Appx 2-C-3, 2-C-4.....	1
Appx 2-C-5, 2-C-6.....	1
Appx 2-C-7, 2-C-8.....	1
Appx 2-C-9, 2-C-10.....	1
Appx 2-C-11, 2-C-12.....	1
Appx 2-C-13, 2-C-14.....	OC
Appx 2-C-15, 2-C-16.....	OC
Appx 2-C-17, 2-C-18.....	1
Appx 2-C-19, 2-C-20.....	OC
Appx 2-C-21, 2-C-22.....	OC
Appx 2-C-23.....	1
3-i	OC
3-1, 3-2	OC
3-3, 3-4	OC
3-5.....	OC
Appx 3-A-i	OC
Appx 3-A-1, 3-A-2	OC
Appx 3-A-3, 3-A-4	OC
Appx 3-A-5, 3-A-6	OC
Appx 3-A-7, 3-A-8	OC
Appx 3-A-9.....	OC
4-i, 4-ii	OC
4-iii	3
4-1, 4-2	3
4-3, 4-4	OC
4-5, 4-6	4
4-6a.....	4
4-7, 4-8	OC
4-9, 4-10	OC
4-11, 4-12	OC
4-13, 4-14	OC
4-15, 4-16	OC
4-17, 4-18	OC
4-19, 4-20	OC
4-21, 4-22	OC
4-23.....	OC
5-i	OC
5-1, 5-2	OC
5-3, 5-4	OC
5-5, 5-6	OC
5-7, 5-8	OC
5-9, 5-10	OC
5-11, 5-12	OC
6-i	OC
6-1, 6-2	OC
6-3, 6-4	1
6-5, 6-6	1
7-i	OC
7-1, 7-2	1
7-3, 7-4	1
8-i, 8-ii.....	3
8-iii	OC
8-1, 8-2	OC
8-3, 8-4	OC

8-5, 8-6.....	OC
8-7, 8-8.....	OC
8-9, 8-10.....	OC
8-11, 8-12.....	OC
8-13, 8-14.....	OC
8-15, 8-16.....	4
8-17, 8-18.....	4
8-18a, 8-18b.....	4
8-19, 8-20.....	3
8-21, 8-22.....	OC
8-23, 8-24.....	OC
8-25, 8-26.....	2
8-26a.....	2
8-27, 8-28.....	OC
8-29, 8-30.....	OC
8-31, 8-32.....	OC
8-33, 8-34.....	OC
8-35.....	OC
9-i, 9-ii.....	OC
9-1, 9-2.....	OC
9-3, 9-4.....	OC
9-5, 9-6.....	OC
9-7, 9-8.....	OC
9-9, 9-10.....	OC
10-i, 10-ii.....	4
10-1, 10-2.....	OC
10-3, 10-4.....	OC
10-5, 10-6.....	OC
10-7, 10-8.....	OC
10-9, 10-10.....	OC
10-11, 10-12.....	4
10-13.....	4
Appx 10-A-i, 10-A-ii.....	OC
Appx 10-A-1, 10-A-2.....	OC
Appx 10-A-3, 10-A-4.....	OC
Appx 10-A-5, 10-A-6.....	OC
Appx 10-A-7, 10-A-8.....	OC
Appx 10-A-9, 10-A-10....	OC
Appx 10-A-11, 10-A-12..	OC
Appx 10-A-13, 10-A-14..	OC
Appx 10-A-15, 10-A-16..	OC
Appx 10-A-17, 10-A-18..	OC
Appx 10-A-19, 10-A-20..	OC
Appx 10-A-21, 10-A-22..	OC
Appx 10-A-23, 10-A-24..	OC
Appx 10-A-25, 10-A-26..	OC
Appx 10-A-27, 10-A-28..	OC
Appx 10-A-29, 10-A-30..	OC
Appx 10-A-31, 10-A-32..	OC
Appx 10-A-33, 10-A-34..	OC
Appx 10-A-35, 10-A-36..	OC
Appx 10-A-37, 10-A-38..	OC
Appx 10-A-39, 10-A-40..	OC
Appx 10-A-41, 10-A-42..	OC
Appx 10-B-i.....	OC
Appx 10-B-1.....	OC
11-i.....	OC
11-1.....	OC
12-i, 12-ii.....	OC

12-iii, 12-iv	OC
12-v, 12-vi	2
12-vii	3
12-1, 12-2	OC
12-3, 12-4	OC
12-5, 12-6	OC
12-7, 12-8	OC
12-9, 12-10	OC
12-11, 12-12	OC
12-13, 12-14	OC
12-15, 12-16	OC
12-17, 12-18	OC
12-19, 12-20	OC
12-21, 12-22	OC
12-23, 12-24	OC
12-25, 12-26	OC
12-27, 12-28	OC
12-29, 12-30	OC
12-31, 12-32	OC
12-33, 12-34	OC
12-35, 12-36	OC
12-37, 12-38	OC
12-39, 12-40	OC
12-41, 12-42	OC
12-43, 12-44	OC
12-45, 12-46	OC
12-47, 12-48	OC
12-49, 12-50	OC
12-51, 12-52	2
12-52a, 12-52b.....	2
12-52c, 12-52d.....	2
12-53, 12-54	2
12-54a, 12-54b.....	2
12-54c.....	2
12-55, 12-56	OC
12-57, 12-58	1
12-59, 12-60	OC
12-61, 12-62	OC
12-63, 12-64	OC
12-65, 12-66	OC
12-67, 12-68	OC
12-69, 12-70	OC
12-71, 12-72	OC
12-73, 12-74	OC
12-75, 12-76	OC
12-77, 12-78	OC
12-79, 12-80	OC
12-81, 12-82	OC
12-83, 12-84	OC
12-85, 12-86	OC
12-87, 12-88	OC
12-89, 12-90	OC
12-91, 12-92	OC
12-93, 12-94	OC
12-95, 12-96	OC
12-97, 12-98	OC
12-99, 12-100	OC
12-101, 12-102	OC
12-103, 12-104	OC

12-105, 12-106.....	OC
12-107, 12-108.....	OC
12-109, 12-110.....	3
12-111, 12-112.....	3
12-113, 12-114.....	3
12-115, 12-116.....	3
12-117, 12-118.....	3
12-119, 12-120.....	3
13-i, 13-ii	OC
13-1, 13-2.....	OC
13-3, 13-4.....	OC
13-5, 13-6.....	OC
13-7, 13-8.....	OC
13-9, 13-10.....	OC
13-11, 13-12.....	OC
13-13, 13-14.....	OC
13-15, 13-16.....	OC
13-17, 13-18.....	OC
13-19, 13-20.....	OC
13-21, 13-22.....	OC
13-23, 13-24.....	OC
13-25, 13-26.....	OC
13-27, 13-28.....	OC
13-29, 13-30.....	OC
14-i, 14-ii	OC
14-1, 14-2.....	OC
14-3, 14-4.....	OC
14-5, 14-6.....	3
14-7, 14-8.....	3
14-9, 14-10.....	3
14-11, 14-12.....	3
14-13, 14-14.....	OC
Appx 14-A-i.....	OC
Appx 14-A-1	OC
T-1, T-2.....	OC
T-3	OC
T-21, T-22.....	OC
T-23, T-24.....	3
T-25	4
T-101, T-102.....	4
I-1, I-2.....	3
I-3, I-4.....	2
I-5, I-6.....	2
I-7, I-8.....	3
I-9, I-10.....	3
I-11, I-12.....	3
I-13, I-14.....	3
I-15, I-16.....	3
I-17, I-18.....	4
I-19, I-20.....	OC
I-21, I-22.....	4
I-23, I-24.....	2
I-25, I-26.....	3
I-27, I-28.....	3
I-29, I-30.....	3

-A-

ABANDONED AND JUNKED VEHICLES

Abandonment	5-1-280
Wrecked, junked vehicles	5-1-280

ADULT-ORIENTED BUSINESSES

Applications	12-21-50
License required	12-21-50
Medical marijuana businesses	12-21-55
Minimum age limitations	12-21-30
Restrictions	
hours of operation	12-21-20
locations	12-21-10
Signs	12-21-40
Violations, penalties	12-21-60

AIRPORT

See MONTE VISTA MUNICIPAL AIRPORT

ALCOHOLIC BEVERAGES

Definitions	8-9-10
License	
City Council approval	Ch. 100
classification	4-2-50
declaration of policy	4-2-30
definitions	4-2-20
educational requirements	4-2-140
fees	4-2-40
levy	4-2-60
liquor licensing	Appx 2-A-1
payment	4-2-70
delinquency not grounds for suspension, revocation	4-2-80
recovery by suit	4-2-100
noncompliance an offense	4-2-110
optional premises	4-2-120
penalty	4-2-150
purpose	4-2-30
revocation	
conviction of violation not constituting	4-2-110
delinquency in payment not grounds for	4-2-80
state statutes adopted	4-2-10
suspension	
delinquency in payment not grounds for	4-2-80
fine, payment of	4-2-90
tastings, authorized	4-2-130
violation	4-2-150
Liquor licensing fees	Appx 2-A-1
Open container	8-9-50
Sales near schools	8-9-40
Underage person, illegal possession or consumption	8-9-30

Violations	8-9-20
Weapons at establishments	8-13-60
 AMUSEMENT LICENSES	
Amusement devices	4-3-10
Arcades	4-3-20
Circuses, carnivals	4-3-10
Contests	4-3-10
Exhibits	4-3-10
Video games	4-3-20
 ANIMALS	
Animal fighting, penalty	8-14-30
Animals, cruelty to	8-14-20
Keeping	
certain animals for exhibitions and celebrations	6-1-20
for commercial purposes prohibited	6-1-10
of pets	6-1-20
Dead animal removal	5-1-220
Dogs	
barking	8-7-100
dangerous dog prohibited	6-2-10
impoundment	
City Manager duties	6-3-20
fines for redemption	6-3-40
generally	6-3-10
infected dogs, disposition of	6-3-50
notice to owner	6-3-30
redemption and fines	6-3-40
unclaimed dogs, disposition of	6-3-50
licenses	
fees	6-2-30
imported dogs	6-4-20
inspection of tag	6-2-80
issuance	6-2-40
period of validity	6-2-90
possession restricted	6-2-100
regulations	6-2-50
required	6-2-30
rabies control	
certificate, record required	6-2-70
imported dogs, vaccination and licensing of	6-4-20
quarantine	6-4-10
running at large prohibited	6-2-20
tags	
inspection	6-2-80
lost tags	6-2-100
possession restricted	6-2-100
required	6-2-40
vaccination	
by authorized persons	6-2-60
imported dogs	6-4-20
period of validity	6-2-90

rabies certificate and record	6-2-70
required	6-2-50
Impoundment	
City Manager duties	6-3-20
finances for redemption	6-3-40
generally	6-3-10
infected dogs, disposition of	6-3-50
notice to owner	6-3-30
redemption and fines	6-3-40
unclaimed dogs, disposition of	6-3-50
Noisy animals prohibited	8-14-10
Rabbits, fowl, running at large of	6-1-30
Running at large	
dogs	6-2-20
rabbits, fowl	6-1-30
Zoning regulations	12-17-90
ANNEXATION PROCEDURES	
Amendment of annexed territory	12-4-110
Applicant responsibilities	11-1-20
Procedure	11-1-30
Purpose	11-1-10
APPROPRIATION	
Assessments	
certificate of assessment	Ch. 52
existing law, adoption of	Ch. 51
Budget, annual estimate	Ch. 53
Funds	Ch. 50
Taxes	
appropriation	Ch. 54
no liability without	Ch. 55
collection	Ch. 56
levy	Ch. 54
ASSAULT	
Unlawful	8-5-10
ATTORNEY, CITY	
See EMPLOYEES AND OFFICERS, CITY	

-B-

BIDDING, PURCHASING AND SALE OF CITY PROPERTY	
Construction contracts	Appx 3-A
Ethics in public contracting	Appx 3-A
Generally	Appx 3-A
Policy	Appx 3-A
Procedure	Appx 3-A
Purchase requirement	3-4-10

Real estate, sale of	3-4-20
Sale of property	Appx 3-A

BOARD OF ADJUSTMENT

Appeals	
court review	12-2-70
effect on proceedings	12-2-50
hearing by Board	2-11-100
hearing notice	12-2-60
time limit	12-2-40
Application procedures	12-2-10
Chairman elected	2-11-50
Established	2-11-10
Meetings	2-11-70
Members	
appointment	2-11-20
removal for cause	2-11-40
term	2-11-30
vacancy	2-11-30
Notice	
of hearing	12-2-60
public notice requirement	12-2-20
Oaths, administration of	2-11-80
Policy determinations	12-2-30
Powers	2-11-100
Public notice requirement	12-2-20
Records retention	2-11-90
Responsibility	12-3-40
Revoke official order, vote to	2-11-60
Rules adopted	2-11-70
Variance, flood prevention, protection	
conditions	12-22-150
procedure	12-22-140
Witnesses, attendance of	2-11-80

BOARDS AND COMMISSIONS

Board of Adjustment	2-11-10
Commission of Public Charities and Public Welfare	Ch. 88
Election Commission	2-2-70
Established by City Council	2-2-240
Historic Preservation Commission	12-16-40
Planning and Zoning Commission	2-10-20
Vacancies, filling of	2-2-50

BONDS

City employees	Ch. 42
Continuing in transition	Ch. 97
Disposal of	Ch. 59
Funding	Ch. 60
Limitation of indebtedness	Ch. 58
Refunding	Ch. 61
Terms of	Ch. 59

BRUSH	
Accumulation, storage a nuisance	5-1-170
BUILDING CODE	
Adoption	14-1-10
Amendments	14-1-30
Application	14-1-40
Certification, copy on file	14-1-20
Penalty	14-1-50
Violations	14-1-50
BUILDING REGULATIONS	
Building and permit fees	Appx 14-A
Building Code	14-1-10
Dangerous Building Code	14-6-10
Energy Conservation Code	14-5-10
Mechanical Code	14-4-10
Plumbing Code	14-3-10
Property repairs	14-6-10
Residential Code	14-2-10
BUSINESS LICENSES	
See also LICENSES AND PERMITS	
Exemptions	4-1-70
License	
contents	4-1-40
exemptions	4-1-70
posting	4-1-40
renewal	4-1-20
required	4-1-20
revocation	4-1-60
separate for each location	4-1-30
suspension	4-1-60
transfer of	4-1-50
violation	4-1-80
Purpose	4-1-10
Violation	4-1-80

-C-

CAPITAL IMPROVEMENT FUND	
Created	3-1-30
CHARTER, HOME RULE	
Alcoholic liquor licenses	Ch. 100
Amendment submission	Ch. 98
Civic beauty	Ch. 91
Effective date	Ch. 92
Initiative, referendum	
generally	Ch. 13

petition	Ch. 12
Misdemeanor, definition of	Ch. 96
Ordinances continue in force	Ch. 94
Penalty for violation	Ch. 95
Power, reservation of	Ch. 99
Powers, rights, liabilities of City	Ch. 2
Public meetings of electors	Ch. 89
Reservation of power	Ch. 99
Transition	
continuing bonds	Ch. 97
ordinances to continue in force	Ch. 94
outgoing officers	Ch. 93
 CITY	
Name, boundaries	Ch. 1
Powers, rights, liabilities	Ch. 2
 CITY COUNCIL	
Action by	Appx 2-B
Alcoholic liquor licenses	Ch. 100
Authority	Appx 2-B
Boards and commissions	Appx 2-B
established	2-2-90
Chairman, Temporary	2-2-40
Code of behavior, principles	Appx 2-B
Councilors	Ch. 14
election for	2-2-70
judges of their election	Ch. 20
qualifications	Ch. 15
salaries	Ch. 17
term of office	Ch. 16
vacancies	Ch. 18
elections	2-2-60
nominations	2-2-50
Elections	Appx 2-B
balloting unnecessary	2-2-80
for Mayor Pro Tem, Council members	2-2-70
to fill vacancy on City Council	2-2-60
Generally	2-2-10
Legislative body	Appx 2-B
Legislative powers	Ch. 19
Mayor	Ch. 33
as Presiding Officer	2-2-20
no veto	Ch. 34
Mayor Pro Tem	2-2-30
election	2-2-70
nominations for	2-2-50
Meetings	Appx 2-B
addressing City Council	Appx 2-B
adherence to procedures	Appx 2-B
parliamentary procedure	Appx 2-B
resolutions, ordinances	Appx 2-B
rules of order	Appx 2-B

rules, suspension of	Appx 2-B
Monte Vista Day establishment	Ch. 90
No extra compensation	Ch. 43
Nominations	Appx 2-B
City Council vacancies	2-2-50
Mayor Pro Tem	2-2-50
Powers	
contractual	Ch. 32
general	Ch. 31
Procedure	Appx 2-B
Public hearing procedures	Appx 2-B
Recall	
petition	Ch. 10
procedure	Ch. 11
Rules of order and procedure	Appx 2-B
addressing Council	Appx 2-B
adherence to rules	Appx 2-B
authority	Appx 2-B
boards and commissions	Appx 2-B
code of behavior	Appx 2-B
customs observed	Appx 2-B
elections	Appx 2-B
legislative body	Appx 2-B
meetings	Appx 2-B
nominations	Appx 2-B
officers	Appx 2-B
ordinances	Appx 2-B
parliamentary procedure	Appx 2-B
principles for City Council members	Appx 2-B
resolutions	Appx 2-B
suspension of rules	Appx 2-B
Vacancies	Ch. 18
election to fill	2-2-60
nomination to fill	2-2-50

CLERK, CITY

See EMPLOYEES AND OFFICERS, CITY

CODE, MUNICIPAL

Acts	
interpretation of unlawful	1-4-60
prohibited	1-3-40
Adoption	1-1-10
Amendments	1-3-70
Authority, delegation of	1-3-30
Copy on file	1-3-90
Definitions	1-2-10
Grammatical interpretation	1-2-50
Office, title of	1-2-30
Ordinances	
changes in previously adopted	1-1-80
continue during transition	Ch. 94
franchises	Ch. 83

generally	Ch. 24
matters not affected by repeal	1-1-60
prior ordinances superseded	1-1-30
proof	Ch. 28
publication	Ch. 25
Clerk's certificate	Ch. 29
fees	Ch. 26
in pamphlet form	Ch. 27
record	Ch. 30
repeal of	1-3-60
not contained in Code	1-1-50
saved from repeal	1-1-70
Penalty	
altering, tampering with Code	1-4-40
general penalty for violation	1-4-20
application to juveniles	1-4-30
violation of ordinances adopted after adoption of Code	1-4-50
violations	1-4-10
Purpose	1-3-50
References, general	1-3-20
Resolutions	Ch. 24
Rules	Ch. 21
Sale of Code books	1-3-100
Seal, corporate	1-6-10
Secondary codes adopted by reference	1-1-40
Severability	1-3-110
Superiority of Code	1-3-120
Supersedes prior ordinances	1-1-30
Supplementation	1-3-80
Terms, usage of	1-2-40
Time, computation of	1-2-20
Title, scope	1-1-20
Titles, headings not part of Code	1-3-10
Violations	1-4-10
 COMMISSION OF PUBLIC CHARITIES AND PUBLIC WELFARE	
Establishment authority	Ch. 88
 COMMISSIONS	
See BOARDS AND COMMISSIONS	
 CONSERVATION TRUST FUND	
Created	3-1-40
 CONTRACTOR LICENSES	
Application procedure	4-4-30
Contents of	4-4-50
Definitions	4-4-10
Expiration date	4-4-60
Issuance of	4-4-40
Rejection, hearing	4-4-70
Required	4-4-20
Revocation, hearing	4-4-70

Suspension, hearing	4-4-70
CONTRACTS	
See also FRANCHISES	
Books of account	Ch. 87
Contracts for service	Ch. 81
Rates and fares, power to regulate	Ch. 82
CONTROLLED SUBSTANCES	
Definitions	8-10-10
Drug paraphernalia	
determination, consideration of	8-10-40
possession of	8-10-30
Medical marijuana businesses prohibited	12-21-55
Marijuana, offenses relating to	8-10-20
Penalty	8-10-60
COURT	
See MUNICIPAL COURT	

-D-

DANGEROUS BUILDING CODE	
Additions to buildings subject to regulations	14-6-40
Alterations subject to regulations	14-6-40
Appeal, generally	14-6-120
Authorized Official notice, orders	14-6-80
Dangerous buildings, designation of	14-6-70
Definitions	14-6-60
Demolition standards	14-6-100
Designation of dangerous building	14-6-70
Enforcement	
generally	14-6-50
of order, generally	14-6-130
Notice and orders	
of Authorized Official generally	14-6-80
recordation of	14-6-90
Notice to vacate	14-6-110
Purpose	14-6-20
Repair or demolition	
performance of work	14-6-140
recovery of cost	14-6-150
subject to regulations	14-6-40
Repair standards	14-6-100
Scope	14-6-30
Title	14-6-10
Vacate, notice to	14-6-110
Vacation standards	14-6-100

DOGS

See also ANIMALS

Barking dogs	8-7-100
Dangerous dog prohibited	6-2-10
Impoundment	
City Manager duties	6-3-20
fines for redemption	6-3-40
generally	6-3-10
infected dogs, disposition of	6-3-50
notice to owner	6-3-30
redemption and fines	6-3-40
unclaimed dogs, disposition of	6-3-50
Licenses	
fees	6-2-30
imported dogs	6-4-20
inspection of tag	6-2-80
issuance	6-2-40
period of validity	6-2-90
possession restricted	6-2-100
regulations	6-2-50
required	6-2-30
Rabies control	
certificate, record required	6-2-70
imported dogs, vaccination and licensing of	6-4-20
quarantine	6-4-10
Running at large prohibited	6-2-20
Tags	
inspection	6-2-80
lost tags	6-2-100
possession restricted	6-2-100
required	6-2-40
Vaccination	
by authorized persons	6-2-60
imported dogs	6-4-20
period of validity	6-2-90
rabies certificate and record	6-2-70
required	6-2-50

DRUGS

Drug paraphernalia	
determination, consideration of	8-10-40
possession of unlawful	8-10-30
Marijuana, offenses relating to	8-10-20
Penalty	8-10-60

-E-

ELECTIONS

See also CITY COUNCIL

Cancellation of	2-1-30

Charter provisions	
general municipal elections	Ch. 3
general regulations	Ch. 8
Judges and clerks	Ch. 5
officers	
election of	Ch. 7
nominations of	Ch. 6
precincts	Ch. 9
registration	Ch. 4
special municipal elections	Ch. 3
Conduct of	2-1-10
Councilors, judges of their election	Ch. 20
Write-in candidate affidavit	2-1-20
ELECTIVE OFFICERS	
See CITY COUNCIL	
EMERGENCY MANAGEMENT	
Duration of emergency	2-7-40
Mayor, inability to act	2-7-60
Powers granted, emergency	2-7-10
Proclamation of emergency	
authority to issue	2-7-20
manner of issuance	2-7-30
Restriction of activities	2-7-50
Unlawful acts	2-7-70
EMPLOYEES AND OFFICERS, CITY	
See also PERSONNEL	
Bonds	Ch. 42
City Attorney	2-3-30
generally	Ch. 40
City Clerk	Ch. 23
certificate of publication	Ch. 29
City Manager	2-3-20
generally	Ch. 35
powers and duties	Ch. 36
salary	Ch. 37
City Treasurer	Ch. 23
Duties	2-3-10
Municipal Judge	2-5-30
appointment	2-3-40
compensation	2-3-40
duties	2-3-30
generally	Ch. 38
jurisdiction, powers, duties and procedures	Ch. 39
term	2-3-40
No extra compensation	Ch. 43
Oath of office	Ch. 41
Personnel rules and regulations	2-4-10
established	Appx 2-C
Powers	2-3-10

ENERGY CONSERVATION CODE

Adoption	14-5-10
Amendments	14-5-30
Copy on file	14-5-20
Violation, penalty	14-5-40

EXCAVATIONS

Penalties	9-6-30
Regulations	9-6-10
Reporting	9-6-20
Specifications	9-6-10
Standards	9-6-10

-F-

FEES

Administrative fees	Appx 2-A
Alcoholic beverage license	4-2-40
Building and permit	Appx 14-A
Dog license	6-2-30
Garbage collection private contracts	10-5-70
Liquor licensing	Appx 2-A-1
Ordinance publication	Ch. 26
Peddler, solicitor and transient merchant license	4-6-160
Sales tax vendor delinquency	3-2-160
Security services license	4-7-70
Subdivision preliminary plat	13-4-120
Tattoo establishment license	4-8-120
Utilities	10-2-80
EQR fees	Appx 10-B
Water tapping	10-3-20
established	Appx 10-B
Zoning map amendment application	12-4-40

FINANCE

See also SALES TAX; UTILITY OCCUPATION TAX	
Annual general City estimate	Ch. 53
Assessments	
certificate of assessment	Ch. 52
existing law, adoption of	Ch. 51
Audit by accountant	Ch. 63
Bidding, purchasing and sale of City property	
construction contracts	Appx 3-A
ethics in public contracting	Appx 3-A
generally	Appx 3-A
policy	Appx 3-A
procedure	Appx 3-A
purchase requirement	3-4-10
real estate, sale of	3-4-20
sale of property	Appx 3-A

Bills	Ch. 47
checks, issuance of	Ch. 48
Bonds	
disposal of	Ch. 59
funding	Ch. 60
limitation of indebtedness	Ch. 58
refunding	Ch. 61
terms of	Ch. 59
Bookkeeping, method of	Ch. 64
Budget, annual estimate	Ch. 53
Cash basis	Ch. 49
Claims against City	Ch. 45
Financial statements	Ch. 62
Fiscal year	Ch. 44
Funds	Ch. 50
created	
Capital Improvement Fund	3-1-30
Conservation Trust Fund	3-1-40
General Fund	3-1-20
custody and management	3-1-10
depository	Ch. 65
Purchasing and sales agent	Ch. 46
Special statutes continued in force	Ch. 57
Taxes	
appropriation	Ch. 54
no liability without	Ch. 55
collection	Ch. 56
levy	Ch. 54
 FIRE DEPARTMENT	
Public safety	Ch. 69
 FIREWORKS	
Certain types, unlawful to sell or use	8-12-20
Definitions	8-12-10
Display	
bond	8-12-40
permits for	8-12-30
sale for	8-12-50
Exploding	8-12-90
Penalty for violations	8-12-100
Possession of	8-12-80
Seizure	8-12-60
Sell or use certain types unlawful	8-12-20
Toy propellant devices used for model or educational rockets	8-12-70
Violations	8-12-100
 FLOOD PREVENTION AND PROTECTION	
Abrogation and greater restrictions	12-22-50
Administrator	
designation	12-22-120
duties and responsibilities	12-22-130
Application of Article	12-22-20

Compliance	12-22-40
Definitions	12-22-10
Flood hazard reduction	
anchoring	12-22-210
below-grade residential crawlspace construction	12-22-270
construction materials, methods	12-22-220
enclosures	12-22-280
encroachments	12-22-250
recreational vehicles	12-22-290
specific standards for	12-22-260
subdivision proposals	12-22-240
utilities	12-22-230
Findings of fact	12-22-2
Interpretation	12-22-60
Methods for reducing flood losses	12-22-4
Permit, establishment of	12-22-110
Severability	12-22-80
Special flood hazard, basis for establishing areas of	12-22-30
Statement of purpose	12-22-3
Statutory authorization	12-22-1
Variance	
conditions	12-22-150
procedure	12-22-140
Warning, disclaimer of liability	12-22-70

FRANCHISES

Additional matter from Charter, right to insert	Ch. 79
Books	
of account	Ch. 87
of record and reference	Ch. 86
Challenge of regulations, liability for	4-5-80
Conditions	Ch. 74
Consent of owner	Ch. 78
Contracts for service	Ch. 81
Extensions	Ch. 77
Franchisee, notice of costs to	4-5-20
payment by	4-5-30
protest, hearing	4-5-40
Grant	Ch. 71
not exclusive	Ch. 72
Hearing	
approval by hearing officer, review by City Council	4-5-70
conduct of	4-5-60
protest	4-5-40
scope of	4-5-50
Inspection by City	Ch. 85
Negotiating expense, account of required	4-5-10
No assignment	Ch. 73
Ordinance in plain terms	Ch. 83
Purchase price	Ch. 76
Rates and fares, power to regulate	Ch. 82
Regulations	Ch. 80
Reports to City	Ch. 85

Safety provisions	Ch. 84
Supervision of City	Ch. 85
Termination	Ch. 75

FUNDS

Capital Improvement Fund	3-1-30
Conservation Trust Fund	3-1-40
Custody and management of funds	3-1-10
General Fund	3-1-20

-G-

GARBAGE AND REFUSE

Accumulation prohibited	5-1-30
Collection	
authority of City	10-5-10
containers required	10-5-20
points	10-5-60
schedule	
change of	10-5-40
collection established	10-5-50
uncollected	5-1-90
vehicle inspection	10-5-10
Collection vehicles inspection	10-5-10
Containers required	10-5-20
Deposit of garbage, rubbish, trash	10-5-30
Garbage vehicle regulations	5-1-100
Permit required for private collectors	10-5-70
fee	10-5-70
Private collectors, permit required	10-5-70
Transporting in open vehicles	5-1-190
Vehicles	
inspection	10-5-10
regulations	5-1-100

GENERAL FUND

Created	3-1-20

GENERAL OFFENSES

See OFFENSES

GENERAL PENALTY

See CODE, MUNICIPAL

GENERAL PROVISIONS

See CODE, MUNICIPAL

-H-

HARASSMENT	
Unlawful	8-7-20
HEALTH	
Health officer	Ch. 68
HEARING PROCEDURES	
Enforcement and review, judicial	2-9-30
Purpose	2-9-10
Rights of participants	2-9-20
HIGHWAYS	
Generally	Ch. 66
HISTORIC PRESERVATION COMMISSION	
Established	12-16-40
HOUSE NUMBERS	
Adjustment of numbers	9-4-80
Assignment, certificate	9-4-30
City sections, number designation	9-4-70
Conformance required	9-4-10
Maps	9-4-90
Number designation	9-4-70
Posting required	9-4-50
Procedure	9-4-20
Specifications	9-4-60
Unofficial numbering prohibited	9-4-40

-I-

INITIATIVE, REFERENDUM	
Generally	Ch. 13
Petition	Ch. 12
INSPECTIONS	
Authority to enter premises	
announcement of purpose	1-5-30
emergency	1-5-20
Entry	1-5-10

-J-

JUNKED VEHICLES

See ABANDONED AND JUNKED VEHICLES

-L-

LIBRARY PROPERTY

Damaging or destroying	8-4-240
Failure to return	8-4-250
Removal of	8-4-260

LICENSES AND PERMITS

Adult-oriented business licenses	12-21-50
Alcoholic beverage licenses	
City Council approval	Ch. 100
classification	4-2-50
declaration of policy	4-2-30
definitions	4-2-20
educational requirements	4-2-140
fees	4-2-40
levy	4-2-60
liquor license	Appx 2-A-1
payment	4-2-70
delinquency not grounds for suspension, revocation	4-2-80
recovery by suit	4-2-100
noncompliance an offense	4-2-110
optional premises	4-2-120
penalty	4-2-150
purpose	4-2-30
revocation	
conviction of violation not constituting	4-2-110
delinquency in payment not grounds	4-2-80
state statutes adopted	4-2-10
suspension	
delinquency in payment not grounds	4-2-80
fine, payment of	4-2-90
tastings, authorized	4-2-130
violation	4-2-150
Amusement licenses	
amusement devices	4-3-10
arcades	4-3-20
circuses, carnivals	4-3-10
contests	4-3-10
exhibits	4-3-10
video games	4-3-20
Business licenses	
contents	4-1-40
exemptions	4-1-70

posting	4-1-40
renewal	4-1-20
required	4-1-20
revocation	4-1-60
separate for each location	4-1-30
suspension	4-1-60
transfer of	4-1-50
violation	4-1-80
Contractor licenses	
application procedure	4-4-30
contents of	4-4-50
definitions	4-4-10
expiration date	4-4-60
issuance of	4-4-40
rejection, hearing	4-4-70
required	4-4-20
revocation, hearing	4-4-70
suspension, hearing	4-4-70
Fireworks display permits	8-12-30
Flood hazard development permits	12-22-110
Garbage removal private contract permits	10-5-70
fee	10-5-70
Historic property alteration permits	12-16-100
exempt projects	12-16-105
Peddlers, solicitors and transient merchants licenses	
application	4-6-110
approval of	4-6-150
disapproval of	4-6-140
bond	4-6-170
exhibition	4-6-180
fee	4-6-160
investigation	4-6-130
penalty for violation	4-6-70
religious and charitable organization exemptions	4-6-120
required	4-6-20
exemptions	4-6-30
revocation	
appeal	4-6-210
cause for	4-6-190
hearing on	4-6-200
reapplication	4-6-220
Planned unit development building permits	12-18-100
Plumbing Code permits	14-3-40
Security services licenses	
application	4-7-50
fees	4-7-70
investigation of applicant	4-7-60
bond	4-7-190
fees	4-7-70
insurance requirements	4-7-80
investigation of applicant	4-7-60
issuance	4-7-90
qualifications	4-7-40

required	4-7-30
revocation	4-7-150
appeal procedures	4-7-170
suspension	4-7-150
appeal procedures	4-7-170
Sign permits	12-20-30
exemptions	12-20-40
Site permits	
application	12-3-80
compliance required	12-3-110
disapproval	12-3-120
issuance	12-3-90
not a waiver	12-3-100
plan approval with application	12-3-130
required	12-3-70
special review use time limit	12-3-160
temporary	12-3-150
unplatted land	12-3-140
variance time limit	12-3-160
Street tree permits	9-3-130
Tattoo establishment licenses	
certificate of inspection required	4-8-130
fees	4-8-120
required	4-8-110
Tree pruning, removal license	9-3-100
Use permits	
compliance required for completion, cancellation	12-3-220
issuance, requirements not exempt	12-3-190
special review uses	12-3-210
time limitation	12-3-200
variances	12-3-210
when required	12-3-200
Water service permits	10-3-10
 LIGHTING	
Generally	Ch. 66
 LITTERING	
Unlawful	8-4-270
 LOITERING	
By minors unlawful	8-8-20

-M-

MANAGER, CITY
 See EMPLOYEES AND OFFICERS, CITY

MARIJUANA
 See CONTROLLED SUBSTANCES

MAYOR

See also CITY COUNCIL

Emergency, proclamation of	2-7-20
inability to act	2-7-60
Mayor Pro Tem	2-2-30
election for	2-2-70
nominations	2-2-50
Presiding Officer	2-2-20

MECHANICAL CODE

Adoption	14-4-10
Amendments	14-4-30
Compliance required	14-4-50
Copy on file	14-4-20
Purpose	14-4-40

MINORS

Alcoholic beverages, illegal possession or consumption	8-9-30
Curfew	8-8-10
Loitering	8-8-20
Tattooing restrictions	4-8-290
Tobacco product prohibitions	
furnishing to	8-8-30
possession and smoking of	8-8-40
use or possession on school property	8-8-50

MODEL TRAFFIC CODE

Adoption	7-1-10
Amendments	7-1-30
Application	7-1-40
Copy on file	7-1-20
Interpretation	7-1-50
Violations	7-1-60

MONTE VISTA DAY

Establishment by City Council	Ch. 90

MONTE VISTA MUNICIPAL AIRPORT

Management, control	9-5-20
Purpose	9-5-10
Rules, regulations	9-5-30
Violation, penalty	9-5-40

MUNICIPAL AIRPORT

See MONTE VISTA MUNICIPAL AIRPORT

MUNICIPAL COURT

Collection, receipt of moneys	2-5-50
Contempt power	2-5-70
Establishment	2-5-10
Jurisdiction	
of juveniles	2-5-80

original	2-5-20
Presiding Municipal Judge	2-5-30
Rules of procedure	2-5-60
Sessions	2-5-40
Violation, penalty	2-5-90
MUNICIPAL JUDGE	
Appointment	2-3-40
Compensation	2-3-40
Duties	2-3-30
Generally	Ch. 38
Jurisdiction, powers, duties, procedures	Ch. 39
Term	2-3-40

-N-

NOISE	
Animals, noisy	8-14-10
Loud and obnoxious noise	8-7-100
NUISANCES	
Abandoned vehicles	5-1-280
Abatement	
alternative procedure	5-2-90
complaint, filing	5-2-30
penalty	5-2-130
responsibility of owner, occupant or agent	5-2-40
right of entry	5-2-50
summary abatement, emergencies	5-2-100
Accumulation	
brush	5-1-170
firewood, excessive	5-1-200
rubbish	5-1-170
to constitute nuisances	5-1-30
weeds	5-1-170
Administration	
ascertaining nuisances	5-2-20
assessment	
certified	5-2-80
notice of	5-2-70
common law nuisances	5-1-20
complaint, filing	5-2-30
costs and charges, lien against property	5-2-60
emergencies; summary abatement	5-2-100
entry, right of	5-2-50
nuisances	
ascertaining	5-2-20
common law	5-1-20
prohibition of	5-2-10
remedies	

concurrent	5-2-120
cumulative	5-2-110
responsibility of owner, occupant or agent	5-2-40
Ascertaining nuisances	5-2-20
Broken windows in vacant dwellings	5-1-290
Brush, accumulation of	5-1-170
Building materials removed from construction sites	5-1-80
Building, zoning regulation violations	5-1-40
Businesses	
offensive	5-1-250
removal of rubbish from	5-1-70
Cistern, contaminated or impure	5-1-120
Common law	5-1-20
Construction sites, removal of building materials	5-1-80
Contaminated well or cistern	5-1-120
Conveyance of anything prejudicial to health	5-1-230
Dead animal removal	5-1-220
Definitions	5-1-10
Discharge of noxious, hazardous liquids	5-1-150
Equipment, motorized, on residential lots	5-1-240
Exposure to anything prejudicial to health	5-1-230
Firewood, excessive accumulation	5-1-200
Garbage or trash, transporting in open vehicles	5-1-190
Garbage, uncollected	5-1-90
Garbage vehicle regulations	5-1-100
Handbills, posters and placards	5-1-180
Hazardous liquids discharge	5-1-150
Impure well or cistern	5-1-120
Junk	5-1-260
Lawns, parking vehicles on	5-1-270
Liquids, discharge of noxious or hazardous	5-1-150
Machinery on residential lots	5-1-240
Noxious liquids discharge	5-1-150
Odors, creating	5-1-240
Parking on lawns	5-1-270
Penalty	5-2-130
Posters	5-1-180
Prohibition	5-2-10
Removal	
dead animal	5-1-220
snow and tree debris, required	5-1-210
Residential dwellings, vacant, broken windows in	5-1-290
Rubbish	
accumulation or storage	5-1-170
removal from business	5-1-70
responsibility for on premises	5-1-60
Sewer inlet	5-1-140
Smoke or odors, creating	5-1-240
Snow removal	5-1-210
Stagnant water	5-1-120
Stale matter	5-1-160
Streams	5-1-130
Streets, streams and water supply	5-1-130

Trash	
not thrown in street, vacant lot	5-1-50
responsibility for on premises	5-1-60
transporting in open vehicle	5-1-190
Tree debris removal	5-1-210
Vehicles	
abandoned, wrecked and junked	5-1-280
garbage vehicle regulations	5-1-100
parking on lawns	5-1-270
transporting garbage, trash	5-1-190
wrecked	5-1-280
Violations	
designated	5-1-110
of building and zoning regulations	5-1-40
Water, stagnant	5-1-120
Water supply	5-1-130
Weeds, accumulation or storage	5-1-170
Well, contaminated or impure	5-1-120
Windows, broken, in vacant dwellings	5-1-290

-O-

OFFENSES

Alcoholic beverages	
definitions	8-9-10
open container	8-9-50
sales near schools	8-9-40
underage person, illegal possession or consumption	8-9-30
violations	8-9-20
weapons at establishments	8-13-60
Animals	
cruelty to	8-14-20
fighting	8-14-30
noisy	8-14-10
Assault	8-5-10
Barking dogs	8-7-100
Cable systems, tampering with	8-4-160
Conduct	
disorderly	8-7-10
unlawful	8-4-210
Controlled substances	
definitions	8-10-10
drug paraphernalia	
determination, consideration of	8-10-40
possession of	8-10-30
marijuana, offenses relating to	8-10-20
penalty	8-10-60
toxic vapors, abusing	8-10-50
Criminal tampering	8-4-150
Curfew	

in parks, public lots, recreational areas	8-4-230
minors	8-8-10
Definitions	8-1-10
Desecrating venerated objects	8-4-280
Disobedience of public safety orders	8-7-60
Disobeying peace officer, firefighter, emergency medical service provider or rescue specialists	8-2-40
Disorderly conduct	8-7-10
Disrupting lawful assembly	8-7-40
Dogs, barking	8-7-100
Drugs	
definitions	8-10-10
drug paraphernalia	
determination, consideration of	8-10-40
possession of	8-10-30
marijuana, offenses relating to	8-10-20
penalty	8-10-60
Educational institutions, interference with	8-7-30
Emergency medical service providers	
disobeying	8-2-40
obstructing	8-2-20
Escape	
aiding	8-3-30
from custody	8-3-10
from jail	8-3-20
Firefighters	
disobeying	8-2-40
obstructing	8-2-20
Fireworks	
certain types, unlawful to sell or use	8-12-20
definitions	8-12-10
display	
bond	8-12-40
permits for	8-12-30
sale for	8-12-50
exploding	8-12-90
penalty for violations	8-12-100
possession of	8-12-80
seizure	8-12-60
sell or use certain types unlawful	8-12-20
toy propellant devices used for model or educational rockets	8-12-70
violation	8-12-100
General provisions	
affirmative defenses	8-1-40
definitions	8-1-10
intent	8-1-20
limitation of actions	8-1-50
scope and application	8-1-30
penalty for violation generally	8-1-60
Governmental operations	
accessory to offense	8-2-100
attempt	8-2-110
complicity	8-2-120

compounding	8-2-90
conspiracy	8-2-130
disobeying peace officer, firefighter, emergency medical service provider or rescue specialists	8-2-40
false reporting to authorities	8-2-60
impersonating a public servant	8-2-70
obstructing government operations	8-2-30
peace officer, firefighter, emergency medical service provider, rescue specialist or volunteer	8-2-20
refusing to aid peace officer	8-2-50
to permit inspections	8-2-140
report crime, duty to; liability for disclosure	8-2-80
resisting arrest	8-2-10
Harassment	8-7-20
Highway or other passageway, obstructing	8-7-70
Jake Brakes	8-7-100
Library property damaging or destroying	8-4-240
failure to return	8-4-250
removal of	8-4-260
Littering	8-4-270
Loitering by minors	8-8-20
Marijuana, offenses relating to	8-10-20
Menacing without deadly weapon	8-5-20
Minors alcoholic beverages, illegal possession or consumption of	8-9-30
curfew	8-8-10
loitering	8-8-20
tobacco products furnishing to	8-8-30
on school property	8-8-50
possession and smoking of prohibited	8-8-40
Noise animals, noisy	8-14-10
loud, obnoxious	8-7-100
Obstructing highway	8-7-70
Obstructing justice escape aiding	8-3-30
from custody	8-3-10
from jail	8-3-20
furnishing certain items to prisoners	8-3-40
Parks, curfew in	8-4-230
Peace officers disobeying	8-2-40
public safety orders	8-7-60
obstructing	8-2-20
refusing to aid	8-2-50
Penalty for violation	8-1-60
Persons, offenses against assault	8-5-10

menacing without deadly weapon	8-5-20
reckless endangerment	8-5-30
Posted notice, defacing	8-4-140
Posting notices on telephone poles	8-4-10
Price switching	8-4-40
Private property	
damage or injury to	
property	8-4-110
signs	8-4-120
defacing	
posted notice	8-4-140
property	8-4-130
injury to	8-4-110
signs, damage to or removal of	8-4-120
tampering	
criminal	8-4-150
with cable systems	8-4-160
Procuring food, accommodations or fuel with intent to defraud	8-4-60
Property, offenses against	
price switching	8-4-40
procuring food, accommodations or fuel with intent to defraud	8-4-60
shoplifting	8-4-30
theft	8-4-50
by receiving	8-4-80
of rental property	8-4-70
trespassing	8-4-20
utility poles, posting notices or advertisements on	8-4-10
Prostitution	8-6-20
Public indecency	8-6-10
Public peace, offenses against	
disorderly conduct	8-7-10
educational institutions, interference with	8-7-30
harassment	8-7-20
highway or other passageway, obstructing	8-7-70
lawful assembly, disrupting	8-7-40
noise, loud and obnoxious	8-7-100
public safety orders, disobedience of; exceptions	8-7-60
riots	8-7-50
throwing stones or missiles	8-7-90
transportation, hindering	8-7-80
Public property	
curfew in parks, public lots and recreational areas	8-4-230
library property	
damaging or destroying	8-4-240
failure to return	8-4-250
removal of	8-4-260
littering	8-4-270
public buildings, trespass or interference	8-4-220
trespass or interference in buildings	8-4-220
unlawful conduct	8-4-210
venerated objects, desecration of	8-4-280
Public safety orders, disobedience of	8-7-60
Reckless endangerment	8-5-30

Recreational areas, curfew in	8-4-230
Resisting arrest	8-2-10
Riots	8-7-50
Shoplifting	8-4-30
Signs, damage to or removal of	8-4-120
Smoking regulations	
definitions	8-11-20
general smoking restrictions	8-11-30
exceptions	8-11-40
legislative declaration	8-11-10
local regulations authorized	8-11-60
no-smoking zone, minors	8-8-40
optional prohibitions	8-11-50
penalty	8-11-70
tobacco products, furnishing to minors	8-8-30
Tampering	
criminal	8-4-150
with cable systems	8-4-160
Theft	8-4-50
by receiving	8-4-80
of rental property	8-4-70
price switching	8-4-40
shoplifting	8-4-30
Throwing stones or missiles	8-7-90
Tobacco products	
furnishing to minors	8-8-30
use or possession on school property	8-8-50
Toxic vapors, abusing	8-10-50
Transportation, hindering	8-7-80
Trespassing	8-4-20
public buildings	8-4-220
Utility poles, posting notices or advertisements to	8-4-10
Vehicle audio systems	8-7-100
Venerated objects, desecration of	8-4-280
Violation, penalty	8-1-60
Weapons	
concealed	8-13-40
confiscated, disposition of	8-13-70
deadly; displaying, flourishing or brandishing	8-13-50
definitions	8-13-10
discharge of firearms	8-13-20
displaying deadly	8-13-50
disposition of confiscated	8-13-70
firearms, discharge of	8-13-20
illegal	8-13-30
where vinous, spirituous or malt beverages are sold	8-13-60

OFFICERS, CITY

See EMPLOYEES AND OFFICERS, CITY

ORDINANCES

See CODE, MUNICIPAL

-P-

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Definitions	4-6-10
License	
application	4-6-110
approval of	4-6-150
disapproval of	4-6-140
investigation	4-6-130
bond	4-6-170
exemptions from	4-6-120
exhibition	4-6-180
fee	4-6-160
investigation	4-6-130
penalty for violation	4-6-70
religious and charitable organization exemptions	4-6-120
required	4-6-20
exemptions	4-6-30
revocation	
appeal	4-6-210
cause for	4-6-190
hearing on	4-6-200
reapplication	4-6-220
Peddling to private residences prohibited	4-6-40
Penalty for violation	4-6-70
Records	4-6-60
Streets, use of	4-6-50
Violation, penalty	4-6-70

PENALTIES

Adult-oriented businesses	12-21-60
Alcoholic beverage licenses	4-2-150
Animal fighting	8-14-30
Building Code	14-1-50
Charter violation	Ch. 95
Code, Municipal	
altering, tampering with	1-4-40
general penalty	1-4-20
application to juveniles	1-4-30
violation of ordinances adopted after adoption of Code	1-4-50
Controlled substances	8-10-60
Drugs	8-10-60
Energy Conservation Code	14-5-40
Excavation	9-6-30
Fireworks	8-12-100
General penalty	1-4-20
application to juveniles	1-4-30
Manufactured home single-wide parks	12-15-390
Monte Vista Municipal Airport regulations	9-5-40
Municipal Court	2-5-90
Nuisance abatement	5-1-130

Offenses generally	8-1-60
Peddlers, solicitors, transient merchants	4-6-70
Sales tax	3-2-40
Solicitors	4-6-70
Smoking regulations	8-11-70
Tattoo establishments	4-8-20
Transient merchants	4-6-70
Tree maintenance	9-3-150
Utilities	10-1-20
delinquent accounts	10-2-70
Utility occupation tax	3-3-70
Zoning	12-1-90
 PERSONNEL	
See also EMPLOYEES AND OFFICERS, CITY	
Personnel rules and regulations	2-4-10
alcohol policy	Appx 2-C
anti-violence policy	Appx 2-C
discipline policy, procedure	Appx 2-C
driver's license policy	Appx 2-C
drug policy	Appx 2-C
established	Appx 2-C
safety policy, procedure	Appx 2-C
travel policy, procedure	Appx 2-C
vehicle usage policy	Appx 2-C
workers' compensation policy	Appx 2-C
workplace security	Appx 2-C
 PLANNING AND ZONING COMMISSION	
Compensation; other positions	2-10-60
Creation	2-10-20
Legislative intent	2-10-10
Meetings	2-10-70
Membership	2-10-20
Organization	2-10-50
Purpose	2-10-40
Responsibility	12-3-20
Status as Zoning Commission	2-10-30
Term	2-10-20
 PLUMBING CODE	
Adoption	14-3-10
Amendments	14-3-20
Application	14-3-50
Permit required	14-3-40
Purpose and scope	14-3-30
 POLICE DEPARTMENT	
Assistance from citizens	2-6-80
Chief of Police duties	2-6-30
Creation; composition	2-6-10
Duties of	
Chief of Police	2-6-30

police officers	2-6-40
Generally	Ch. 70
Oath	2-6-50
Regulations, departmental	2-6-20
Uniforms	2-6-70
Witnesses, police officers as	2-6-60

PROPERTY

City property bidding, purchasing, sale	
construction contracts	Appx 3-A
ethics in public contracting	Appx 3-A
generally	Appx 3-A
policy	Appx 3-A
procedure	Appx 3-A
purchase requirement	3-4-10
real estate, sale of	3-4-20
sale of property	Appx 3-A
Unclaimed property	
definitions	2-8-20
property	
disposition of, procedure for	2-8-30
lost, stolen or confiscated	2-8-40
purpose	2-8-10

PUBLIC SAFETY

Fire Department	Ch. 69
Health	Ch. 68
Highways	Ch. 66
Lighting	Ch. 66
Police Department	Ch. 70
Public safety	Ch. 69
Sewers	Ch. 66
Water	Ch. 67
Water works	Ch. 66

PUBLIC UTILITIES

See also FRANCHISES; UTILITIES	
Sewer	Ch. 66
Supervision, reports, inspection	Ch. 85
Water	Ch. 67
Water works	Ch. 66

-R-

RECALL

Petition	Ch. 10
Procedure	Ch. 11

REFERENDUM

See INITIATIVE, REFERENDUM

REFUSE

See GARBAGE AND REFUSE

RESIDENTIAL CODE

Adoption	14-2-10
Amendments	14-2-30
Application	14-2-40
Certification, copy on file	14-2-20

REVENUE AND FINANCE

See FINANCE; SALES TAX; UTILITY OCCUPATION TAX

RULES OF ORDER AND PROCEDURE

See CITY COUNCIL

-S-

SALES TAX

Collection, administration	3-2-170
Definitions	3-2-10
Enforcement	3-2-170
Gross receipts include delivery charges	3-2-140
Imposition	
of sales tax	3-2-110
schedule for	3-2-150
Penalty for violations	3-2-40
Purpose	3-2-30
Retail sales, consummation of	3-2-130
State statutes, incorporation of	3-2-120
Title	3-2-20
Vendor's fee; delinquency	3-2-160
Violation	3-2-40

SEAL

Corporate	1-6-10

SECURITY SERVICES LICENSES

Appeal procedures	4-7-170
Badges	4-7-100
Citizens, duty of	4-7-180
Definitions	4-7-20
Equipment	4-7-100
Fees	4-7-70
Firearms	4-7-120
Identification cards	4-7-100
License	
application	4-7-50
fees	4-7-70
investigation of applicant	4-7-60
bond	4-7-190

fees	4-7-70
insurance requirements	4-7-80
investigation of applicant	4-7-60
issuance	4-7-90
qualifications	4-7-40
required	4-7-30
revocation	4-7-150
appeal procedures	4-7-170
suspension	4-7-150
appeal procedures	4-7-170
Personnel, change in	4-7-130
Purpose	4-7-10
Rules, regulations	4-7-160
Training requirements	4-7-110
Uniforms	4-7-100
Unlawful acts	4-7-140
 SEWER ACTIVITY ENTERPRISE	
Established	10-6-10
Governing body	10-6-20
Issuance of bonds	10-6-40
Maintenance of status	10-6-30
 SEWERS	
See also UTILITIES	
Generally	Ch. 66
 SIDEWALKS	
See also STREETS	
Construction	
cost assessment	
collection	9-2-230
notice	9-2-220
generally	9-2-20
grade	9-2-70
notice	
cost assessment	9-2-220
time limit, lien	9-2-210
repair, owner responsibility	9-2-240
specifications	
curbline	9-2-40
tree line	9-2-50
utility line	9-2-60
width	9-2-30
Definitions	9-2-10
Repair, owner responsibility	9-2-240
Restricted use of	9-1-20
Shrubbery, hedges adjacent to	9-3-80
Standards, specifications	
grade	9-2-70
specifications	
curbline	9-2-40
tree line	9-2-50

utility line	9-2-60
width	9-2-30
SIGNS	
Administration	12-20-60
Adult-oriented businesses	12-21-40
Area, measurement of	12-20-70
Definitions	12-20-20
Design	12-20-80
Enforcement	12-20-60
Height, measurement of	12-20-70
Installation	12-20-90
Maintenance	12-20-90
Permits	12-20-30
exemptions	12-20-40
Prohibited	12-20-50
Purpose, intent	12-20-10
Standards	
by zone district	12-20-110
for specific types	12-20-100
SMOKING REGULATIONS	
Definitions	8-11-20
General smoking restrictions	8-11-30
exceptions	8-11-40
Legislative declaration	8-11-10
Local regulations authorized	8-11-60
No-smoking zone, minors	8-8-40
Optional prohibitions	8-11-50
Penalty	8-11-70
Tobacco products, furnishing to minors	8-8-30
SOLID WASTE	
See GARBAGE AND REFUSE	
STREET TREES	
See TREES AND SHRUBBERY	
STREETS	
See also SIDEWALKS	
Bicycles, restricted use of	9-1-20
Design standards in subdivisions	13-5-60
Excavations	
penalties	9-6-30
reporting	9-6-20
standards, regulations, specifications	9-6-10
Highways	Ch. 66
House numbers	
adjustment of numbers	9-4-80
assignment, certificate	9-4-30
City sections, number designation	9-4-70
conformance required	9-4-10
maps	9-4-90

number designation	9-4-70
posting required	9-4-50
procedure	9-4-20
specifications	9-4-60
unofficial numbering prohibited	9-4-40
Lighting	Ch. 66
Motorcycles, mopeds, restricted use of	9-1-20
Obstructions generally	9-1-10
Restricted use of motorcycles, bicycles, tricycles, rollerblades, sleds, etc.	9-1-20
Right-of-way, repair of	9-1-30
Roller skates, rollerblades, similar devices, restricted use of	9-1-20
Skateboards, restricted use of	9-1-20
Skis, roller skis, restricted use of	9-1-20
Sleds, toboggans, coasters, restricted use of	9-1-20
Toy vehicles, tricycles, restricted use of	9-1-20
Trees and shrubbery	
control of	9-3-50
costs of removal	9-3-60
creating obstructions	9-3-70
dangerous	9-3-70
appeals from City actions	9-3-90
conditions, notice	9-3-60
trees	9-3-70
destroying prohibited	9-3-120
hazardous conditions	9-3-60
hedges and shrubbery adjacent to sidewalks	9-3-80
appeals from City actions	9-3-90
infected trees and shrubs, removal or treatment of	9-3-40
appeals from City actions	9-3-90
license	
administration	9-3-110
required to prune, remove	9-3-100
maintenance on public rights-of-way	9-3-10
appeals from City actions	9-3-90
nonhazardous trees and shrubs, permission to remove; cost of removal	9-3-60
appeals from City actions	9-3-90
obstructions, creating	9-3-70
penalty	9-3-150
prohibited trees	9-3-20
prune or remove trees, license required to	9-3-100
public right-of-way	9-3-30
public way, maintenance on	9-3-10
removal	
of infected trees	9-3-40
of nonhazardous	9-3-60
sidewalks, hedges and shrubbery adjacent to	9-3-80
street tree plan, permits	9-3-130
appeals from City actions	9-3-90
violations	9-3-140
Vehicles, wrecked, junked	5-2-280

SUBDIVISIONS

Administration	
planning, control over	13-3-30
review process generally	13-3-10
Alley design standards	13-5-20
Amendments or additions	13-2-70
Application of regulations	13-3-40
Authority	13-2-30
Block design standards	13-5-40
Building permits issuance	13-6-110
Cable service improvements	13-6-90
Definitions	13-1-10
Design standards	
alleys	13-5-20
blocks	13-5-40
easements	13-5-30
lots	13-5-50
open spaces	13-5-70
public lands, acceptance of	13-5-80
public sites	13-5-70
requirements, general	13-5-10
street trees	13-5-90
streets	13-5-60
Easement design standards	13-5-30
Effective date	13-2-80
Electric service improvements	13-6-90
Final plats	
City Council resolution	13-4-340
contents	13-4-360
filing	13-4-320
generally	13-4-310
Planning and Zoning Commission review	13-4-330
public improvements, supplementary information	13-4-370
recording	13-4-350
time limitations	13-4-380
Gas service improvements	13-6-90
Improvements	
building permits	13-6-110
cable service	13-6-90
contractor responsibility	13-6-10
developer responsibility	13-6-10
electric service	13-6-90
final acceptance	13-6-100
gas service	13-6-90
monuments	13-6-40
other improvements	13-6-120
plan preparation	13-6-20
public improvements	
guarantee of completion of	13-6-30
warranty term, final acceptance	13-6-100
service; electric, gas, cable and telephone	13-6-90
storm drainage	13-6-80
street improvements	13-6-50

subdivider responsibility	13-6-10
system	
sanitary sewer	13-6-70
water	13-6-60
telephone service	13-6-90
warranty term	13-6-100
Interpretation	13-2-50
Jurisdiction	13-2-60
Language construction rules	13-2-20
Lot design standards	13-5-50
Minor subdivisions	13-3-50
Monuments	13-6-40
Open space standards	13-5-70
Platting, control over by City Council	13-3-30
Preliminary plats	
contents	13-4-180
copies submitted	13-4-130
filing fee	13-4-120
generally	13-4-110
Planning and Zoning Commission action	13-4-160
public hearing	13-4-150
review process	13-4-140
supplementary information	13-4-190
time limitations	13-4-170
Public hearing notices	13-3-70
Public improvements	
guarantee of completion of	13-6-30
warranty term, final acceptance	13-6-100
Public lands acceptance	13-5-80
Public site standards	13-5-70
Purpose	13-2-40
Review processes	
generally	13-3-10
preliminary plats	13-4-140
sketch plans	13-4-30
Rules of construction of language	13-2-20
Sanitary sewer system improvements	13-6-70
Sketch plans	
contents	13-4-40
copies submitted	13-4-20
preapplication conference	13-4-10
review process	13-4-30
Street	
design standards	12-5-60
improvements	13-6-50
tree design standards	13-5-90
Telephone service improvements	13-6-90
Title	13-2-10
Variance	13-3-20
Vested property rights	13-3-60
Warranty term for improvements	13-6-100
Water system improvements	13-6-60

-T-

TATTOO ESTABLISHMENT LICENSES

Definitions	4-8-10
License	
certificate of inspection required	4-8-130
fees	4-8-120
required	4-8-110
Penalty for violations	4-8-20
Regulations	
bandages and surgical dressings	4-8-260
health and sanitary requirements	4-8-210
infections	4-8-240
inspections	4-8-270
instruments, care of	4-8-220
minors, tattooing of	4-8-290
pigments, dyes	4-8-250
records	4-8-230
rules and regulations	4-8-280
Violations	4-8-20

TAXES

See also SALES TAX; UTILITY OCCUPATION TAX	
Appropriation	Ch. 54
no liability without	Ch. 55
Collection	Ch. 56
Levy	Ch. 54

THEFT

By receiving	8-4-80
Generally	8-4-50
Of rental property	8-4-70
Price switching	8-4-40
Shoplifting	8-4-30

TOXIC VAPORS

Abusing unlawful	8-10-50

TRAFFIC

 See VEHICLES AND TRAFFIC

TRANSIENT MERCHANTS

 See PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

TREASURER, CITY

 See EMPLOYEES AND OFFICERS, CITY

TREES AND SHRUBBERY

Control of	9-3-50
Costs of removal	9-3-60
Creating obstructions	9-3-70

Dangerous	9-3-70
appeals from City actions	9-3-90
conditions, notice	9-3-60
trees	9-3-70
Destroying prohibited	9-3-120
Hazardous conditions	9-3-60
Hedges and shrubbery adjacent to sidewalks	9-3-80
appeals from City actions	9-3-90
Infected trees and shrubs, removal or treatment of	9-3-40
appeals from City actions	9-3-90
License	
administration	9-3-110
required to prune, remove	9-3-100
Maintenance on public rights-of-way	9-3-10
appeals from City actions	9-3-90
Nonhazardous trees and shrubs, permission to remove; cost of removal	9-3-60
appeals from City actions	9-3-90
Obstructions, creating	9-3-70
Penalty	9-3-150
Prohibited trees	9-3-20
Prune or remove trees, license required to	9-3-100
Public right-of-way	9-3-30
Public way, maintenance on	9-3-10
Removal	
of infected trees	9-3-40
of nonhazardous trees	9-3-60
Sidewalk, hedges and shrubbery adjacent to	9-3-80
Street tree plan, permits	9-3-130
appeals from City actions	9-3-90
Violations	9-3-140
 TRESPASSING	
Public buildings	8-4-220
Unlawful	8-4-20

-U-

UNCLAIMED PROPERTY DISPOSITION	
Definitions	2-8-20
Lost, stolen or confiscated	2-8-40
Procedure for disposition	2-8-30
Purpose	2-8-10
 UTILITIES	
See also GARBAGE AND REFUSE; SEWER ACTIVITY ENTERPRISE; UTILITY OCCUPATION TAX; WATER WORKS	
Billing procedure	10-2-60
Cross-connection control	
definitions	10-4-30

policy	10-4-50
purpose	10-4-10
responsibility	10-4-20
water system requirements	10-4-40
Fees, charges billing procedure	
adjustments	10-2-90
arrears service discontinuance	10-2-70
billing procedure	10-2-60
charges	
consolidated with fees	10-2-40
establishment of	10-2-20
generally	10-2-10
liability for payment	10-2-20
delinquent accounts	10-2-70
EQR rates established	Appx 10-B
fees consolidated with charges	10-2-40
funds	10-2-100
liens imposed	10-2-50
rates	
established	10-2-80
listed	Appx 10-B
generally	10-2-10
services determined municipal benefit	10-2-30
service discontinuance	10-2-70
Penalty provision	10-1-20
delinquent accounts	10-2-70
Purpose	10-1-10
Wastewater utility rules, regulations adopted	10-1-30
listed	Appx 10-A
Water service	
charges established	Appx 10-B
connections, specifications for	10-3-110
fees, tapping	10-3-20
fire hydrant, obstructing prohibited	10-3-130
meters, water required	10-3-50
transfer of property	10-3-60
permit required	10-3-10
sprinkling restrictions	10-3-140
tampering prohibited	10-3-120
taps	
connections, specifications for	10-3-110
installation, specifications	10-3-100
outside City	10-3-80
owner responsibility	10-3-30
separate taps required	10-3-40
tapping fees	10-3-20
established	Appx 10-B
transfer of property, meters required	10-3-60
valves, opening and closing	10-3-70
wasting water prohibited	10-3-90
water meters required	10-3-50
transfer of property	10-3-60
water service tap installation, specifications	10-3-100

Water supply	Ch. 67
Water works	Ch. 66

UTILITY OCCUPATION TAX

Definitions	3-3-10
Failure to pay	3-3-50
interest on deficiency	3-3-60
Filing statement	3-3-40
Hearings, administrative	3-3-90
Payment of tax	3-3-40
Penalties	3-3-70
Policy	3-3-20
Purpose	3-3-20
local purpose	3-3-30
Records, inspection of	3-3-80

-V-

VEHICLES AND TRAFFIC

Abandoned, wrecked and junked	5-1-280
Garbage collection vehicles	5-1-100
Model Traffic Code	
adoption	7-1-10
amendments	7-1-30
application	7-1-40
copy on file	7-1-20
interpretation	7-1-50
violations	7-1-60
Parking on lawns nuisance	5-1-270

VIOLATIONS

Adult-oriented businesses	12-21-60
Alcoholic beverage licenses	4-2-150
Alcoholic beverages	8-9-20
Building and zoning regulations	5-1-40
Building Code	14-1-50
Business licenses	4-1-80
Charter, penalty	Ch. 95
Code	1-4-10
ordinances adopted after Code adoption	1-4-50
Energy Conservation Code	14-5-40
Fireworks	8-12-100
General	1-4-10
Model Traffic Code	7-1-60
Monte Vista Municipal Airport	9-5-40
Municipal Court	2-5-90
Nuisances	5-1-110
Offenses, general	8-1-60
Peddlers, solicitors, transient merchants	4-6-70
Sales tax	3-2-40

Tattoo establishments	4-8-20
Trees	9-3-140
Zoning	12-1-80

-W-

WASTEWATER SERVICE

See also UTILITIES

Rules and regulations	
adopted	10-1-30
listed	Appx 10-A

WATER SERVICE

See also UTILITIES; WATER WORKS

Charges established	Appx 10-B
Connections, specifications for	10-3-110
Fire hydrant, obstructing prohibited	10-3-130
Meters	
required	10-3-50
transfer of property	10-3-60
Permit required	10-3-10
Rates established	Appx 10-B
Sprinkling restrictions	10-3-140
Tampering prohibited	10-3-120
Taps	
connections, specifications for	10-3-110
installation, specifications	10-3-100
outside City	10-3-80
owner responsibility	10-3-30
separate taps required	10-3-40
tapping fees	10-3-20
established	Appx 10-B
Transfer of property, meters required	10-3-60
Valves, opening and closing	10-3-70
Wasting water prohibited	10-3-90
Water meters required	10-3-50
transfer of property	10-3-60
Water service tap installation, specifications	10-3-100

WATER WORKS

See also WATER SERVICE

Generally	Ch. 66
Supply	Ch. 67

WEAPONS

Concealed	8-13-40
Confiscated, disposition of	8-13-70
Deadly; displaying, flourishing or brandishing	8-13-50
Definitions	8-13-10
Discharge of firearms	8-13-20

Displaying deadly	8-13-50
Disposition of confiscated	8-13-70
Firearms, discharge of	8-13-20
Illegal	8-13-30
Where vinous, spirituous or malt beverages are sold	8-13-60

WEEDS

Accumulation, storage prohibited	5-1-170

-Z-

ZONING

Accessory uses, structures	12-17-10
Administration review process, chart	12-3-10
Adult-oriented businesses	
applications	12-21-50
license required	12-21-50
medical marijuana business	12-21-55
minimum age limitations	12-21-30
restriction regulations	
hours of operation	12-21-20
locations	12-21-10
signs	12-21-40
violations, penalties	12-21-60
Amendments	
annexed territory	12-4-110
authorization	12-4-10
court review of decisions	12-4-90
official zoning map	12-4-20
records	12-4-100
rezoning policy	12-4-30
zoning map amendment	12-4-20
additional street right-of-way, screening	12-4-80
application, fee	12-4-40
data to be submitted	12-4-50
exemption for notice	12-4-70
hearing, notice, time limit	12-4-60
Animal regulations	12-17-90
Application of provisions	12-1-60
Architectural, placement standards	12-17-40
Authority	12-1-30
Board of Adjustment	
appeals	
court review	12-2-70
effect on proceedings	12-2-50
hearing by Board	2-11-100
hearing, notice	12-2-60
time limit	12-2-40
application procedures	12-2-10
Chairman elected	2-11-50

established	2-11-10
meetings	2-11-70
members	
appointment	2-11-20
removal for cause	2-11-40
term	2-11-30
vacancy	2-11-30
notice	
hearing on appeal	12-2-60
public notice requirement	12-2-20
oaths, administration of	2-11-80
policy determination	12-2-30
powers	2-11-100
public notice requirement	12-2-20
records retention	2-11-90
responsibility	12-3-40
revoke official order, vote to	2-11-60
rules adoption	2-11-70
variance, flood prevention, protection	
conditions	12-22-150
procedure	12-22-140
witnesses, attendance of	2-11-80
Building height exceptions	12-17-50
Building permits, time limit for variance or special review use	12-3-160
Buildings, projections from	12-17-60
Bus, trailer storage, parking	12-17-110
Camping unit storage, parking	12-17-110
Central Business District Overlay District	
applicability and standards	12-16-220
purpose	12-16-210
Certificate of occupancy	
application, issuance	12-3-180
record on file	12-3-180
required, contents	12-3-170
City Council responsibility	12-3-50
City Manager	
administrator of regulations	12-3-60
responsibility	12-3-30
CMRS regulations	12-17-150
Commercial Business (CB) District	
building height	12-13-70
gross floor area	12-13-80
lot	
coverage	12-13-60
size	12-13-40
parking requirements	12-13-90
permitted uses	12-13-20
purpose	12-13-10
setback requirements	12-13-50
special review uses	12-13-30
Commercial Highway (CH) District	
building height	12-12-70
gross floor area	12-12-80

lot	
coverage	12-12-60
size	12-12-40
parking requirements	12-12-90
permitted uses	12-12-20
purpose	12-12-10
setback requirements	12-12-50
special review uses	12-12-30
vision clearance requirements	12-12-100
Commercial vehicle storage, parking	12-17-110
Definitions	
flood prevention, protection	12-22-10
generally	12-1-10
signs	12-20-20
Drive-in facility regulations	12-17-130
Extractive industry regulations	12-17-140
1st Avenue Overlay District	
applicability	12-16-120
purpose	12-16-110
review procedure	12-16-140
standards	12-16-130
Flood prevention and protection	
abrogation and greater restrictions	12-22-50
administrator	
designation	12-22-120
duties and responsibilities	12-22-130
application of Article	12-22-20
compliance	12-22-40
definitions	12-22-10
flood hazard reduction	
anchoring	12-22-210
below-grade residential crawlspace construction	12-22-270
construction materials, methods	12-22-220
enclosures	12-22-280
encroachments	12-22-250
recreational vehicles	12-22-290
specific standards for	12-22-260
subdivision proposals	12-22-240
utilities	12-22-230
findings of fact	12-22-2
interpretation	12-22-60
methods for reducing flood losses	12-22-4
permit, establishment of	12-22-110
severability	12-22-80
special flood hazard, basis for establishing areas of	12-22-30
statement of purpose	12-22-3
statutory authorization	12-22-1
variance	
conditions	12-22-150
procedure	12-22-140
warning, disclaimer of liability	12-22-70
General provisions	
application	12-1-60

authority	12-1-30
damages, liability for	12-1-100
definitions	12-1-10
interpretation	12-1-50
jurisdiction	12-1-70
major activity notice	12-1-110
penalty	12-1-90
purpose	12-1-40
title	12-1-20
violations	12-1-80
Hearings	
Board of Adjustment, notice	12-2-60
generally	12-3-320
special review uses	12-5-70
zoning map amendments	12-4-60
Historic Protection Overlay District	
City Council designation	12-16-60
definitions	12-16-10
designation recordings	12-16-70
Historic Preservation Commission	
established	12-16-40
historic	
property alteration permits	12-16-100
exempt projects	12-16-105
registry	12-16-30
historic landmark designation	12-16-60
City Council process	12-16-50
recording of	12-16-70
limitations on development	12-16-90
Monte Vista architecture	12-16-80
process for designation of historic landmarks	12-16-50
purpose and intent	12-16-20
Home occupation regulations	12-17-120
Industrial (I) District	
building height	12-14-70
gross floor area	12-14-80
lot	
coverage	12-14-60
size	12-14-40
parking requirements	12-14-90
permitted uses	12-14-20
purpose	12-14-10
setback requirements	12-14-50
special review uses	12-14-30
vision clearance requirements	12-14-100
Industries, extractive regulations	12-17-140
Interpretation	12-1-50
Jurisdiction	12-1-70
Landscaping standards	12-17-30
Lot coverage	
CB District	12-13-60
CH District	12-12-60
I District	12-14-60

Mfg-H District	12-11-60
MSW District	12-15-60
RE District	12-7-60
RH District	12-10-60
RL District	12-8-60
RM District	12-9-60
RU District	12-6-60
Lot size	
CB District	12-13-40
CH District	12-12-40
I District	12-14-40
Mfg-H District	12-11-40
MSW District	12-15-40
RE District	12-7-40
RH District	12-10-40
RL District	12-8-40
RM District	12-9-40
RU District	12-6-40
Lots of record	12-3-330
Major activity notice	12-1-110
Manufactured Home Single-Wide (MSW) District	
building height	12-15-70
gross floor area	12-15-80
lot	
coverage	12-15-60
size	12-15-40
manufactured home single-wide parks	
access	12-15-260
approval requirements, procedures	12-15-350
building permits	12-15-360
camping units	12-15-310
density	12-15-230
fire protection	12-15-320
license	
annual, required	12-15-370
operations license	12-15-380
site plan requirements	12-15-210
lighting	12-15-270
nonconforming	12-15-400
occupant registration	12-15-340
off-street, on-street parking	12-15-290
open space	12-15-280
parking	12-15-290
paving	12-15-270
penalty	12-15-390
public sites	12-15-280
recreation areas	12-15-280
requirements and procedures	12-15-350
roadways, interior	12-15-260
setbacks	12-15-240
single-wide park density	12-15-230
site selection criteria	12-15-220
space requirements	12-15-250

storage areas	12-15-300
utilities	12-15-330
walkways	12-15-270
permitted uses	12-15-20
purpose	12-15-10
setback requirements	12-15-50
special review uses	12-15-30
supplementary provisions	12-15-100
vision clearance requirements	12-15-90
Manufactured home regulations	12-17-100
storage, parking	12-17-110
Manufactured Homes (Mfg-H) District	
building height	12-11-70
gross floor area	12-11-80
lot	
coverage	12-11-60
size	12-11-40
parking requirements	12-11-90
permitted uses	12-11-20
purpose	12-11-10
setback requirements	12-11-50
special review uses	12-11-30
vision clearance requirements	12-11-100
Medical marijuana businesses prohibited	12-21-55
Nonconforming uses	
completion of work	12-3-280
district changes	12-3-300
screening	12-3-290
Nonconforming uses and structures	
alteration	12-3-240
change	12-3-260
continuation	12-3-230
destruction	12-3-270
discontinuance	12-3-250
restoration	12-3-270
Off-street parking and loading	
buildings not designated	12-19-20
general parking requirements	12-19-100
generally	12-19-10
joint use	12-19-40
loading	12-19-120
location restriction	12-19-50
multiple uses in single structure or parcel	12-19-30
off-street stacking	12-19-130
parking lots	
completion time	12-19-90
design requirements for	12-19-80
parking requirements	
generally	12-19-100
specific uses	12-19-110
plan required, contents	12-19-70
single-wide mobile home parks	12-15-290
specific uses, parking requirements for	12-19-110

use restrictions	12-19-60
uses	
joint use	12-19-40
multiple uses in single structure	12-19-30
not designated	12-19-20
restriction	12-19-60
specific use requirements	12-17-110
Overlay Districts	
Central Business Overlay District	
applicability and standards	12-16-220
purpose	12-16-210
1st Avenue Overlay District	
applicability	12-16-120
purpose	12-16-110
review procedure	12-16-140
standards	12-16-130
Historic Protection Overlay District	
City Council designation	12-16-60
definitions	12-16-10
designation recordings	12-16-70
Historic Preservation Commission established	12-16-40
historic	
property alteration permits	12-16-100
exempt projects	12-16-105
registry	12-16-30
historic landmark designation	12-16-60
City Council process	12-16-50
recording of	12-16-70
limitations on development	12-16-90
Monte Vista architecture	12-16-80
process for designation of historic landmarks	12-16-50
purpose and intent	12-16-20
Parking regulations, requirements	
buses, trailers	12-17-110
camping units	12-17-110
CB District	12-13-90
CH District	12-12-90
commercial vehicles	12-17-110
I District	12-14-90
manufactured home single-wide parks	12-15-290
Mfg-H District	12-11-90
off-street parking	
generally	12-19-100
specific uses	12-19-110
rail cars	12-17-110
RE District	12-7-90
RH District	12-10-90
RL District	12-8-90
RM District	12-9-90
RU District	12-6-90
Penalty	12-1-90
Permitted uses	
CB District	12-13-20

CH District	12-12-20
generally	12-5-30
I District	12-14-20
in zoning districts	12-5-120
Mfg-H District	12-11-20
MSW District	12-15-20
RE District	12-7-20
RH District	12-10-20
RL District	12-8-20
RM District	12-9-20
RU District	12-6-20
use chart	12-5-120
Planned Unit Development	
changes restricted	12-18-140
completion	12-18-130
final development plan	
amendment procedure	12-18-120
building permit, certificate of occupancy issuance	12-18-100
development schedule	
compliance required	12-18-110
extension	12-18-110
review, recording	12-18-90
specifications	12-18-80
submission	12-18-70
preapplication conference	12-18-40
preliminary development plan	
application	12-18-50
review and approval procedure	12-18-60
purpose	12-18-10
scope	12-18-20
standards	12-18-30
Planning and Zoning Commission	
compensation; other positions	2-10-60
creation	2-10-20
legislative intent	2-10-10
meetings	2-10-70
membership	2-10-20
organization	2-10-50
purpose	2-10-40
responsibility	12-3-20
status as Zoning Commission	2-10-30
term	2-10-20
Projections from buildings	12-17-60
Public hearings, notice generally	12-3-320
Purpose	12-1-40
Railcar storage, parking	12-17-110
Recreational equipment storage, parking	12-17-110
Residential Estate (RE) District	
building height	12-7-70
gross floor area	12-7-80
lot	
coverage	12-7-60
size	12-7-40

parking requirements	12-7-90
permitted uses	12-7-20
purpose	12-7-10
setback requirements	12-7-50
special review uses	12-7-30
vision clearance requirements	12-7-100
Residential High-Density (RH) District	
building height	12-10-70
gross floor area	12-10-80
lot	
coverage	12-10-60
size	12-10-40
parking requirements	12-10-90
permitted uses	12-10-20
purpose	12-10-10
setback requirements	12-10-50
special review uses	12-10-30
vision clearance requirements	12-10-100
Residential Low-Density (RL) District	
building height	12-8-70
gross floor area	12-8-80
lot	
coverage	12-8-60
size	12-8-40
parking requirements	12-8-90
permitted uses	12-8-20
purpose	12-8-10
setback requirements	12-8-50
special review uses	12-8-30
vision clearance requirements	12-8-100
Residential Medium-Density (RM) District	
building height	12-9-70
gross floor area	12-9-80
lot	
coverage	12-9-60
size	12-9-40
parking requirements	12-9-90
permitted uses	12-9-20
purpose	12-9-10
setback requirements	12-9-50
special review uses	12-9-30
vision clearance requirements	12-9-100
Responsibility of parties	
Board of Adjustment	12-3-40
City Council	12-3-50
City Manager	12-3-30
Planning and Zoning Commission	12-3-20
Review process, chart	12-3-10
Rezoning policy	12-4-30
Rural (RU) District	
building height	12-6-70
gross floor area	12-6-80
lot	

coverage	12-6-60
size	12-6-40
parking requirements	12-6-90
permitted uses	12-6-20
purpose	12-6-10
setback requirements	12-6-50
special review uses	12-6-30
vision clearance requirements	12-6-100
Salvage yard regulations	12-17-140
Screening	12-17-80
Signs	
administration	12-20-60
adult-oriented businesses	12-21-40
area, measurement of	12-20-70
definitions	12-20-20
design	12-20-80
enforcement	12-20-60
height, measurement of	12-20-70
installation	12-20-90
maintenance	12-20-90
permits	12-20-30
exemptions	12-20-40
prohibited	12-20-50
purpose, intent	12-20-10
standards	
by zone district	12-20-110
for specific types	12-20-100
Site permit	
application	12-3-80
compliance required	12-3-110
disapproval	12-3-120
issuance	12-3-90
not a waiver	12-3-100
plan approval with application	12-3-130
required	12-3-70
special review use time limit	12-3-160
temporary	12-3-150
unplatted land	12-3-140
variance time limit	12-3-160
Special review uses	
appeal of decision	12-5-100
application	12-5-50
approval criteria and conditions	12-5-90
CB District	12-13-30
CH District	12-12-30
decision review, right to appeal	12-5-100
generally	12-5-40
I District	12-14-30
in zoning districts	12-5-120
Mfg-H District	12-11-30
modification after approval	12-5-110
MSW District	12-15-30
notice	12-5-60

public hearing, recommendation	12-5-70
public meeting	12-5-80
RE District	12-7-30
RH District	12-10-30
RL District	12-8-30
RM District	12-9-30
RU District	12-6-30
time limit for site, building permit	12-3-160
use chart	12-5-120
use permit	12-3-210
Storage of vehicles, camping units	12-17-110
Supplementary regulations	
accessory uses and structures	12-17-10
animals	12-17-90
architectural and placement standards	12-17-40
building height exceptions	12-17-50
Commercial Mobile Radio Systems (CMRS)	12-17-150
drive-in facilities	12-17-130
extractive industries	12-17-140
home occupations	12-17-120
landscaping	12-17-30
manufactured homes	12-17-100
projections from buildings	12-17-60
salvage yards	12-17-140
screening	12-17-80
storage and parking of commercial vehicles, railcars, camping units, etc.	12-17-110
temporary uses	12-17-20
vision clearance	12-17-70
Temporary uses	12-17-20
Title	12-1-20
Use permit	
compliance required for completion, cancellation	12-3-220
issuance, requirements not exempt	12-3-190
special review uses	12-3-210
time limitation	12-3-200
variances	12-3-210
when required	12-3-200
Variances	
flood prevention protection	12-22-140
time limit for site, building permit	12-3-160
use permit	12-3-210
Vehicles, storage and parking	12-17-110
Vested property rights	12-3-310
Violations	12-1-80
Vision clearance	12-17-70
CH District	12-12-100
I District	12-14-100
Mfg-H District	12-11-100
MSW District	12-15-90
RE District	12-7-100
RH District	12-10-100
RL District	12-8-100

RM District	12-9-100
RU District	12-6-100
Zoning Commission, status of	2-10-30
Zoning district regulations	
district boundaries	12-5-20
established	12-5-10
permitted and special review uses in zoning districts	12-5-120
permitted uses	12-5-30
use chart	12-5-120
special review uses	12-5-40
appeal of decision	12-5-100
application	12-5-50
approval criteria and conditions	12-5-90
decision review, right to appeal	12-5-100
modification after approval	12-5-110
notice	12-5-60
public hearing, recommendation	12-5-70
public meeting	12-5-80
use chart	12-5-120
Zoning map amendment	12-4-20
additional street right-of-way, screening	12-4-80
application, fee	12-4-40
data to be submitted	12-4-50
exemption for notice	12-4-70
hearing, notice, time limit	12-4-60

31-12-107. Petitions for annexation and for annexation elections.

(1) Petition for annexation in accordance with section 30 (1) (b) of article II of the state constitution:

(a) Persons comprising more than fifty percent of the landowners in the area and owning more than fifty percent of the area, excluding public streets and alleys and any land owned by the annexing municipality, meeting the requirements of sections [31-12-104](#) and 31-12-105 may petition the governing body of any municipality for the annexation of such territory.

(b) The petition shall be filed with the clerk.

(c) The petition shall contain the following:

(I) An allegation that it is desirable and necessary that such area be annexed to the municipality;

(II) An allegation that the requirements of sections [31-12-104](#) and 31-12-105 exist or have been met;

(III) An allegation that the signers of the petition comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality;

(IV) A request that the annexing municipality approve the annexation of the area proposed to be annexed;

(V) The signatures of such landowners;

(VI) The mailing address of each such signer;

(VII) The legal description of the land owned by such signer;

(VIII) The date of signing of each signature; and

(IX) The affidavit of each circulator of such petition, whether consisting of one or more sheets, that each signature therein is the signature of the person whose name it purports to be.

(d) Accompanying the petition shall be four copies of an annexation map containing the following information:

(I) A written legal description of the boundaries of the area proposed to be annexed;

(II) A map showing the boundary of the area proposed to be annexed;

(III) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;

(IV) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality

abutting the area proposed to be annexed.

(e) No signature on the petition is valid if it is dated more than one hundred eighty days prior to the date of filing the petition for annexation with the clerk. All petitions which substantially comply with the requirements set forth in paragraphs (b) to (d) of this subsection (1) shall be deemed sufficient. No person signing a petition for annexation shall be permitted to withdraw his signature from the petition after the petition has been filed with the clerk, except as such right of withdrawal is otherwise set forth in the petition.

(f) The clerk shall refer the petition to the governing body as a communication. The governing body, without undue delay, shall then take appropriate steps to determine if the petition so filed is substantially in compliance with this subsection (1).

(g) If the petition is found to be in substantial compliance with this subsection (1), the procedure outlined in sections [31-12-108](#) to 31-12-110 shall then be followed. If it is not in substantial compliance, no further action shall be taken.

(2) Petition for annexation election in accordance with section 30 (1) (a) of article II of the state constitution:

(a) The registered electors may petition the governing body of any municipality to commence proceedings for the holding of an annexation election in the area proposed to be annexed. This petition shall meet the standards described in paragraphs (c) and (d) of this subsection (2) and either:

(I) Shall be signed by at least seventy-five registered electors or ten percent of said electors, whichever is less, if such area is located in a county of more than twenty-five thousand inhabitants; or

(II) Shall be signed by at least forty registered electors or ten percent of said electors, whichever is less, if such area is located in a county of twenty-five thousand inhabitants or less.

(b) The petition shall be filed with the clerk.

(c) The petition for annexation election shall comply with the provisions of paragraph (c) of subsection (1) of this section; except that:

(I) Rather than an allegation of any certain percentage of land owned, it shall contain an allegation that the signers of the petition are qualified electors resident in and landowners of the area proposed to be annexed; and

(II) The petition shall request the annexing municipality to commence proceedings for the holding of an annexation election in accordance with section 30 (1) (a) of article II of the state constitution.

(d) The requirements and procedures provided for in paragraphs (e) and (f) of subsection (1) of this section shall be met and followed in a proceeding under this subsection (2).

(e) If the petition is found to be in substantial compliance with this subsection (2), the procedure outlined in sections [31-12-108](#)

[31-12-108. Setting hearing date - notice given.](#)

(1) As a part of the resolution initiating annexation proceedings by the municipality or of a resolution finding substantial compliance of an annexation petition or of a petition for an annexation election, the governing body of the annexing municipality shall establish a date, time, and place that the governing body will hold a hearing to determine if the proposed annexation complies with section 30 of article II of the state constitution and sections [31-12-104](#) and 31-12-105 or such provisions thereof as may be required to establish eligibility under the terms of this part 1. The hearing shall be held not less than thirty days nor more than sixty days after the effective date of the resolution setting the hearing. This hearing need not be held if the municipality has determined conclusively that the requirements of section 30 of article II of the state constitution and sections [31-12-104](#) and 31-12-105 have not been met.

(2) The clerk shall give notice as follows: A copy of the resolution or the petition as filed (exclusive of the signatures) together with a notice that, on the given date and at the given time and place set by the governing body, the governing body shall hold a hearing upon said resolution of the annexing municipality or upon the petition for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of section 30 of article II of the state constitution and sections [31-12-104](#) and 31-12-105 and is considered eligible for annexation. Said notice shall be published once a week for four successive weeks in some newspaper of general circulation in the area proposed to be annexed. The first publication of such notice shall be at least thirty days prior to the date of the hearing. The proof of publication of the notice and resolution or petition, or the summary thereof, shall be returned when the publication is completed, the certificate of the owner, editor, or manager of the newspaper in which said notice is published shall be proof thereof, and a hearing shall then be held as provided in said notice. A copy of the published notice, together with a copy of the resolution and petition as filed, shall also be sent by registered mail by the clerk to the board of county commissioners and to the county attorney of the county wherein the territory is located and to any special district or school district having territory within the area to be annexed at least twenty-five days prior to the date fixed for such hearing. The notice required to be sent to the special district or school district by this subsection (2) shall not confer any right of review in addition to those rights provided for in section [31-12-116](#).

(3) The governing body of the annexing municipality, from time to time, may continue the hearing to another date without additional notice if the volume of material to be received cannot be presented within the available time for any given session; except that no session of a hearing shall be so continued unless at least one hour of testimony has been heard.

Source: L. 75: Entire title R&RE, p. 1083, § 1, effective July 1. L. 87: (2) amended, p. 1220, § 4, effective May 28. L. 2010: (1) and (2) amended, (HB [10-1259](#)), ch. 211, p. 916, § 6, effective August 11.)))))

Editor's note: This section is similar to former § 31-8-108 as it existed prior to 1975.

to 31-12-110 shall then be followed, subject thereafter to an annexation election to be held in accordance with section [31-12-112](#). If the petition for an annexation election is not found to be in substantial compliance, no further action shall be taken; except that the governing body shall make such determination by resolution.

(3) Procedures alternative: The procedures set forth in subsections (1) and (2) of this section are

alternative to each other and to any procedure set forth in section [31-12-106](#); except that a petition for annexation election filed pursuant to subsection (2) of this section shall take precedence over an annexation petition involving the same territory and filed pursuant to subsection (1) of this section if such petition for annexation election is filed at least ten days prior to the hearing date set for the annexation petition filed pursuant to subsection (1) of this section.

(4) Additional terms and conditions on the annexation: Additional terms and conditions may be imposed by the governing body in accordance with section [31-12-112](#).

(5) If a petition is filed pursuant to subsection (1) or (2) of this section and the territory sought to be annexed meets the specifications of section [31-12-106](#) (1), the governing body of the municipality with which the petition is filed shall thereupon initiate annexation proceedings pursuant to the appropriate provisions of section [31-12-106](#) (1). In the event that any governing body fails to initiate such annexation proceedings within a period of one year from the time that such petition is filed, annexation may be effected by an action in the nature of mandamus to the district court of the county where the land to be annexed is located, and the petitioner's court costs and attorney fees incident to such action shall be borne by the municipality.

(6) No proceedings for annexation to a municipality may be initiated in any area which is the same or substantially the same area in which an election for annexation to the same municipality has been held within the preceding twelve months.

(7) For the purpose of determining the compliance with the petition requirements in this section, a signature by any landowner shall be sufficient so long as any other owner in fee of an undivided interest in the same area of land does not object in writing to the governing body of the annexing municipality within fourteen days after the filing of the petition for annexation or annexation election. The entire area of the land signed for shall be computed as petitioning for annexation if such signing landowner has become liable for taxes in the last preceding calendar year or is exempt by law from payment of taxes. One who is purchasing land under a written contract duly recorded shall be deemed the owner of the land which is subject to the contract if he has paid the taxes thereon for the next preceding tax year. The signers for an area owned by a corporation, whether profit or nonprofit, shall be the same persons as those authorized to convey land for such corporation.

(8) No power of attorney providing the consent of a landowner to be annexed by a municipality pursuant to this section shall be valid for a term of more than five years, and no such power of attorney executed before May 27, 1997, shall be valid for a term of more than five years after May 27, 1997.

[31-12-108. Setting hearing date - notice given.](#)

(1) As a part of the resolution initiating annexation proceedings by the municipality or of a resolution finding substantial compliance of an annexation petition or of a petition for an annexation election, the governing body of the annexing municipality shall establish a date, time, and place that the governing body will hold a hearing to determine if the proposed annexation complies with section 30 of article II of the state constitution and sections [31-12-104](#) and [31-12-105](#) or such provisions thereof as may be required to establish eligibility under the

terms of this part 1. The hearing shall be held not less than thirty days nor more than sixty days after the effective date of the resolution setting the hearing. This hearing need not be held if the municipality has determined conclusively that the requirements of section 30 of article II of the state constitution and sections [31-12-104](#) and 31-12-105 have not been met.

(2) The clerk shall give notice as follows: A copy of the resolution or the petition as filed (exclusive of the signatures) together with a notice that, on the given date and at the given time and place set by the governing body, the governing body shall hold a hearing upon said resolution of the annexing municipality or upon the petition for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of section 30 of article II of the state constitution and sections [31-12-104](#) and 31-12-105 and is considered eligible for annexation. Said notice shall be published once a week for four successive weeks in some newspaper of general circulation in the area proposed to be annexed. The first publication of such notice shall be at least thirty days prior to the date of the hearing. The proof of publication of the notice and resolution or petition, or the summary thereof, shall be returned when the publication is completed, the certificate of the owner, editor, or manager of the newspaper in which said notice is published shall be proof thereof, and a hearing shall then be held as provided in said notice. A copy of the published notice, together with a copy of the resolution and petition as filed, shall also be sent by registered mail by the clerk to the board of county commissioners and to the county attorney of the county wherein the territory is located and to any special district or school district having territory within the area to be annexed at least twenty-five days prior to the date fixed for such hearing. The notice required to be sent to the special district or school district by this subsection (2) shall not confer any right of review in addition to those rights provided for in section [31-12-116](#).

(3) The governing body of the annexing municipality, from time to time, may continue the hearing to another date without additional notice if the volume of material to be received cannot be presented within the available time for any given session; except that no session of a hearing shall be so continued unless at least one hour of testimony has been heard.

Source: L. 75: Entire title R&RE, p. 1083, § 1, effective July 1. L. 87: (2) amended, p. 1220, § 4, effective May 28. L. 2010: (1) and (2) amended, (HB [10-1259](#)), ch. 211, p. 916, § 6, effective August 11.

Editor's note: This section is similar to former § 31-8-108 as it existed prior to 1975.

Source: L. 75: Entire title R&RE, p. 1080, § 1, effective July 1; (1)(d)(IV) amended, p. 1452, §

12, effective July 1. **L. 87:** (1)(e) and (1)(g) amended, p. 1219, § 3, effective May 28. **L. 97:** (5) amended and (8) added, p. 995, § 3, effective May 27. **L. 2010:** IP(1), (1)(a), (1)(c)(III), (1)(g), IP(2), (2)(a), (2)(c)(II), and (2)(e) amended, (HB [10-1259](#)), ch. 211, p. 914, § 5, effective August 11.

Editor's note: This section is similar to former §§ 31-8-103 and 31-8-107 as they existed prior to 1975.

ANNOTATION

Analysis

[I. General Consideration.](#)

[II. Petition for Annexation.](#)

[III. Petition for Annexation Election.](#)

I. GENERAL CONSIDERATION.

Law reviews. For article, "One Year Review of Constitutional Law", see 40 Den. L. Ctr. J. 134 (1963). For article, "Annexation: Today's Gamble for Tomorrow's Gain -- Parts I and II", see 17 Colo. Law. 603 (1988). For article, "ADR Techniques in Municipal Annexations", see 18 Colo. Law. 901 (1989).

Annotator's note. Since § [31-12-107](#) is similar to former § 31-8-107 prior to the 1975 repeal and reenactment of this title, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

The 1965 annexation act provided for alternate methods of annexing land. Breternitz v. City of Arvada, 174 Colo. 56, 482 P.2d 955 (1971).

Procedures detailed. This section detailed procedures relating to petitions by those owners residing within or only owning land within the area to be annexed. Tanner v. City of Boulder, 151 Colo. 283, 377 P.2d 945 (1962).

Differentiation of petitioner qualifications. Except for differences regarding the qualifications of the petitioners, the procedures under this section are substantially the same. City of Aspen v. Howell, 170 Colo. 82, 459 P.2d 764 (1969).

The article contains no express prohibition against any person becoming the circulator of a petition. City of Englewood v. Daily, 158 Colo. 356, 407 P.2d 325 (1965).

This section requires an affidavit that each signature thereon is the signature of the person whose name it purports to be. City of Englewood v. Daily, 158 Colo. 356, 407 P.2d 325 (1965).

The streets and public ways in the area are not to be included in calculating the area to be annexed. City & County of Denver v. Holmes, 156 Colo. 586, 400 P.2d 901 (1965).

Where a court has already exercised exclusive jurisdiction over issues of ownership, the municipality may not also consider the issue in an annexation proceeding. Sensible Hous. Co. v. Town of Minturn, ___ P.3d ___ (Colo. App. 2010).

Applied in Bd. of County Comm'rs v. City & County of Denver, 190 Colo. 8, 543 P.2d 521 (1975); Slack v. City of Colo. Springs, 655 P.2d 376 (Colo. 1982).

II. PETITION FOR ANNEXATION.

Legislative intent in subsection (1)(g). The general assembly clearly intended to distinguish between petitions for annexation signed by 100 percent of the owners of the land proposed for annexation and

petitions signed by a lesser number by enacting this section. Bd. of County Comm'rs v. City & County of Denver, 194 Colo. 252, 571 P.2d 1094 (1977).

The legislative limitation applies to the entire part, and not merely to this section. Bd. of County Comm'rs v. City & County of Denver, 194 Colo. 252, 571 P.2d 1094 (1977).

Initiation of proceedings by petition. This section provides that annexation proceedings of eligible territory shall be initiated by written petition presented to the legislative body of the city, city and county, or incorporated town to which it is proposed to annex such territory. People ex rel. City & County of Denver v. County Court, 137 Colo. 436, 326 P.2d 372 (1958); City of Englewood v. Daily, 158 Colo. 356, 407 P.2d 325 (1965).

Land ownership and tax liability proponent and opponent prerequisites. The requirements of ownership in fee and the liability for taxes were both prerequisites for participation as a proponent of the annexation, and the same requirements confronted an opponent of the annexation. City & County of Denver v. Holmes, 156 Colo. 586, 400 P.2d 901 (1965).

Owners of land in joint tenancy are entitled to sign and to be counted with the resident landowners, because each joint tenant owns an interest and is in his own right a landowner. Rice v. City of Englewood, 147 Colo. 33, 362 P.2d 557 (1961).

Petition signed by executor. The petition for annexation was signed by the "owner" of 100 percent of the territory annexed where it was signed by an executor to whom was given full power to manage and sell estate property as well as authority to do any act or carry out any agreement respecting the property even though title was not in him. Bd. of County Comm'rs v. City & County of Denver, 193 Colo. 211, 565 P.2d 212 (1977).

Where an annexation petition was signed by a tenant-in-common holding an undivided interest in the land annexed, the requirements of subsection (1)(g) were met and no notice, hearing, or election was necessary. Bd. of County Comm'rs v. City & County of Denver, 193 Colo. 325, 566 P.2d 335 (1977).

Where signers of the annexation petition owned well over 50% of the land proposed to be annexed, but at the same time five of the nine resident signers were favorable to the annexation, the fact that these resident owners represented a percentage of property less than 50% is inconsequential since much more than 50% of the area was represented by resident and nonresident owners. Rice v. City of Englewood, 147 Colo. 33, 362 P.2d 557 (1961).

Notice and hearing are not required when 100% of the landowners sign the annexation petition. Bd. of County Comm'rs v. City & County of Denver, 194 Colo. 252, 571 P.2d 1094 (1977).

Streets and roadways are excluded when considering whether all of the landowners in an area proposed to be annexed have signed an annexation petition, and, if all other owners are signatories, there are no notice, hearing, or election requirements. Bd. of County Comm'rs v. City & County of Denver, 40 Colo. App. 281, 573 P.2d 568 (1977).

Immaterial who obtains consent. With regard to petitions for annexation, so long as the requisite number of landowners freely consent to the annexation it is wholly immaterial who obtains that consent. City of Englewood v. Daily, 158 Colo. 356, 407 P.2d 325 (1965).

Such as city officials. Nowhere does this article prohibit, either expressly or by necessary implication, the annexing city's officials from participating in the circulation of annexation petitions. City of Englewood v. Daily, 158 Colo. 356, 407 P.2d 325 (1965).

The fact that city councilmen must "find" that the form of the petition meets the statutory requirements when it is presented to the annexing city's council does not disqualify the councilmen from acting as circulators of the petitions. City of Englewood v. Daily, 158 Colo. 356, 407 P.2d 325 (1965).

"Finding" is administrative conclusion. The "finding" of compliance with the section, as a preliminary step in annexation proceedings, is no more than an administrative or ministerial conclusion of fact upon which the legislative power to act is dependent, and this "finding" would necessarily be made by the

legislative body whether this section required it or not. *City of Englewood v. Daily*, 158 Colo. 356, 407 P.2d 325 (1965).

An obvious typographical error in the signature page of an annexation petition considered in context was insubstantial and did not invalidate the petition. *Bd. of County Comm'rs v. City & County of Denver*, 193 Colo. 325, 566 P.2d 335 (1977).

An annexation petition was sufficient even though the signature pages failed to set out the date of each signature, where the dates on the verifications accompanying the signatures showed that signing took place prior to filing the documents, and there was no allegation that prejudice resulted or that any of the signatures were stale. *Bd. of County Comm'rs v. City & County of Denver*, 193 Colo. 325, 566 P.2d 335 (1977).

There is substantial compliance with the requirement of subsection (1)(d) that copies of the annexation map accompany the petition where the map is available to the city council whether or not it is physically attached to the petition. *Bd. of County Comm'rs v. City & County of Denver*, 193 Colo. 325, 566 P.2d 335 (1977).

Where, in its resolution, the city council recited that the annexation petition was accompanied by a map and school board resolution, and these documents were available on file with the Denver clerk and recorder for the city council's inspection and consideration prior to passage of the annexation ordinance, there was substantial compliance with the requirements that the documents accompany the petition. *Bd. of County Comm'rs v. City & County of Denver*, 193 Colo. 325, 566 P.2d 335 (1977).

When no substantial compliance with subsection (1)(g). The standard of substantial compliance under subsection (1)(g) is not met where the ownership of the land to be annexed does not clearly appear. *Bd. of County Comm'rs v. City & County of Denver*, 193 Colo. 321, 566 P.2d 340 (1977).

The standard of substantial compliance under subsection (1)(g) is not met where the description of the area to be annexed is so confused and contradictory that the area to be annexed cannot be determined from the petition and its attachments. *Bd. of County Comm'rs v. City & County of Denver*, 193 Colo. 321, 566 P.2d 340 (1977).

Where city owned 50-foot strip in land to be annexed. Since the city council must decide whether annexation will be approved under subsection (1)(g) where owners of 100% of the land to be annexed had signed the petition, no purpose would be served by requiring the city, as owner of a 50-foot contiguous strip in the land to be annexed, to sign a petition addressed to itself. *Bd. of County Comm'rs v. City & County of Denver*, 38 Colo. App. 171, 556 P.2d 486 (1976), *aff'd*, 194 Colo. 252, 571 P.2d 1094 (1977).

III. PETITION FOR ANNEXATION ELECTION.

This section provides for the electorate to have a veto power over annexation when it commands that an election petition take precedence over any petition filed with city council by petitioners who own more than 50% of the land. *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

Compliance with subsection (1)(c)(III) not required. When a petition for annexation election is filed pursuant to subsection (2), the signers, if they comprise the requisite number or percentage and are qualified electors and resident landowners in the territory, need not also comply with subsection (1)(c)(II). *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

The general assembly intended that subsection (1)(c)(III) of this section requiring signatures of more than 50% of the landowners be excepted, i.e., "taken out" and excluded from consideration when the requisite number of petitioners sought annexation by the election alternative. *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

If the provision of subsection (2) that either 75 electors or 10%, whichever is the lesser, can petition for an election in which the majority vote will control, it simply does not make sense to add the additional requirement that these same petitioners be owners of more than 50% of the land. *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

Corporate or nonresident owners have no voice in election. Subsection (2), if it is to be given life and meaning, was intended to provide for a voice in the annexation process to be given to people living in the area as opposed to corporate or nonresident owners of larger segments of the land. *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

Except corporate owner may petition. By giving full force and effect to the subsection (2) alternative, one corporate owner, or two, or half a dozen owners of more than 50% of the land cannot impose their annexation whims on other resident-electors who own the balance or less than 50% of the territory, but the latter may nevertheless petition for an election if 75 electors or 10% wish to put the matter to a vote. *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

Suspension of actions on annexation petition. The provision that a petition for annexation election shall take precedence over an annexation petition does not require that, when the election petition was filed, all actions under the annexation petition should have been abandoned, and a new procedure should have been initiated under subsection (2). *City of Aspen v. Howell*, 170 Colo. 82, 459 P.2d 764 (1969).

Findings as to qualifications of signers proper. Where there was testimony that the signers of the petition were registered voters, that each signer stated under oath that he was a landowner, and that an examination of the county records disclosed them all to be landowners, and the petition recited that the signers were qualified electors, residents in and landowners of the area proposed to be annexed, and there is nothing in the record to indicate that less than 75 of the signers were not qualified to sign, the finding of the city council as to the qualifications of the signers is proper. *Breternitz v. City of Arvada*, 174 Colo. 56, 482 P.2d 955 (1971).

31-12-111. Annexation without election.

If the resolution of the governing body adopted pursuant to section [31-12-110](#) determines that the applicable provisions of section 30 of article II of the state constitution and sections [31-12-104](#) and 31-12-105 have been met, and further determines that an election is not required under section [31-12-107](#) (2), and does not determine that additional terms and conditions are to be imposed, the governing body may thereupon annex the area proposed to be annexed by ordinance.