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CHAPTER 1

General Offense Code

Article I
General Provisions

Sec. 11-1-101. Purpose.

This Chapter is enacted for the purpose of defining the general offenses of the City, prohibiting the commission of offenses deemed detrimental to the health, safety and welfare of the community, and preventing the occurrence of such offenses by appropriate punishment.

Sec. 11-1-102. Construction.

Except as may otherwise be provided in this Chapter, the provision of this Chapter, supplemented by general law where not inconsistent, shall govern the construction and punishment for any offense defined in this Chapter (or elsewhere in this Code).

Sec. 11-1-103. Penalties for violation.

(a) Unless otherwise specified, the punishment for violation of an offense described in this Chapter shall be a fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than one (1) year, or both such fine and imprisonment, provided that, if the person found guilty of a violation of an offense was under eighteen (18) years of age at the time of the offense, the court shall not impose a jail sentence but may impose in-home detention for not more than one (1) year.

(b) The punishment for violation of an offense defined as a Class 1 municipal offense shall be a fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than one (1) year, or both such fine and imprisonment, provided that, if the person found guilty of a violation of a Class 1 municipal offense was under eighteen (18) years of age at the time of the offense, the court shall not impose a jail sentence but may impose in-home detention for not more than one (1) year.

(c) The punishment for violation of an offense defined as a Class 2 municipal offense shall be a fine of not more than one thousand dollars ($1,000.00).

(d) The Municipal Judge may, in his or her discretion, impose alternative sentencing including but not limited to in-home detention not to exceed one (1) year, probation, community service, deferred sentence, deferred prosecution, rehabilitation and educational classes, for any violations of the Municipal Code if he or she determines the alternative sentencing will best serve the intent and purpose of the Municipal Code.

(e) In addition to the penalties provided herein, any person convicted of a violation of Section 11-1-201, 11-1-207, 11-1-301, 11-1-302, 11-1-602 or 11-1-608 of this Code, shall be assessed a fee to be known as the Pueblo Metro D.A.R.E. Surcharge in the amount of five dollars ($5.00). The Pueblo Metro D.A.R.E. Surcharge shall be imposed at the time of conviction and may only be waived by the court upon a finding that the defendant or in the case of a minor the defendant's parent is indigent. For purposes of this Subsection (e), *conviction* shall include all guilty pleas, findings of guilt and

deferred sentences. The Pueblo Metro D.A.R.E. Surcharge shall be collected by the Municipal Court and paid into the City's general fund.

(f) In addition to the penalties provided herein, any person convicted of violating Section 11-1-204 or 11-1-607 of this Chapter shall be assessed a surcharge for each count of such conviction, to be known as the Keep Pueblo Beautiful Surcharge, in the amount of twenty-five dollars ($25.00). In the case of an unemancipated minor, the parents or guardians of the minor shall be jointly and severally liable for this surcharge and shall be ordered to pay the same. This surcharge may only be waived by the Court upon a bona fide finding that the defendant is indigent, or in the case of a minor, that the minor's parents or guardians are indigent. This surcharge shall be collected by the Municipal Court and paid into the City's general fund. (Ord. No. 6060, 2-26-96; Ord. No. 6235, 8-25-97; Ord. No. 7937 §20, 12-8-08; Ord. No. 8194 §4, 5-10-10; Ord. No. 8607 §3, 7-8-13)

Sec. 11-1-104. Definitions.

The following definitions are applicable to all offenses prescribed under this Chapter:

(1) *Act* means a bodily movement, and includes words and possession of property.

(2) *Conduct* means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

(3) *Omission* means a failure to perform an act as to which a duty of performance is imposed by law.

(4) *Deadly weapon* means any firearm, knife, bludgeon or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury.

(5) *Knowingly.* A person acts knowingly with respect to conduct or to a circumstance when he or she is aware, or reasonably should be aware, that his or her conduct is of such nature or that such circumstance exists. A person acts knowingly with respect to the result of his or her conduct when he or she is aware, or reasonably should be aware, that his or her conduct is practically certain to cause the result.

(6) *Recklessly.* A person acts recklessly when he or she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(7) *Intentionally.* A person acts intentionally when his or her conscious object is to cause that result or when his or her actions are such as to give rise to a substantial certainty that such results will be produced.

(8) *Bodily injury* means physical pain, illness or any impairment of physical or mental conditions.

(9) *Firearm* means any handgun, revolver, pistol, rifle, shotgun or other instrument or device capable or intended to be capable of discharging pellets, bullets, cartridges or other explosive charges.

(10) *Public place* means, unless otherwise defined, a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, streets, sidewalks, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings, facilities and parking areas.

(11) *Serious bodily injury* means bodily injury which involves a substantial risk of death, serious permanent disfigurement or protracted loss or impairment of the functions of any part or organ of the body.

(12) *Minor* means a real person under the age of eighteen (18) years.

Sec. 11-1-105. Severability.

In the event that any word, phrase, paragraph, section or subsection of this Chapter shall at any time be found unconstitutional or void, such finding shall not affect the remainder thereof which shall remain in full force and effect.

Sec. 11-1-106. Attempt.

(a) A person commits criminal attempt of an offense defined by the ordinances of the City 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.

(b) Attempt to commit a municipal violation is a Class 2 municipal offense.

Sec. 11-1-107. 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 defined by the ordinances of the City or which constitutes an attempt to commit an offense defined by the ordinances of the City, or he or she agrees to aid the other person or persons in the planning or commission of such an offense or of an attempt to commit such offense.

(b) Conspiracy to commit an offense is a Class 1 municipal offense.

Sec. 11-1-108. Complicity.

A person is legally accountable as a 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 or advises the other person in planning or committing the offense.

Sec. 11-1-109. District Attorney.

The District Attorney of the Tenth Judicial District and any Deputy District Attorney or Assistant District Attorney of the Tenth Judicial District, when acting in such capacity, are duly appointed law

enforcement officers of the City authorized to issue and serve summons and complaints for violations of this Chapter. (Ord. No. 7114 §1, 3-22-04)

Sec. 11-1-110. Honor Farm.

Chapter 1 of Title XI (General Offense Code), except Section 11-1-607 thereof, and Chapter 1 of Title XV (Model Traffic Code) are expressly declared to be applicable to and in full force and effect in and upon that area of the County of Pueblo, State of Colorado owned by the City in Sections 16, 17, 18, 19, 20, 21 and 28, Township 20 South, Range 65 West of the 6th Principal Meridian, commonly known as the *Honor Farm*. (Ord. 7483 §1, 7-10-06)

Article II
Offenses Relating to Public Peace, Order and Decency

Sec. 11-1-201. Disorderly conduct.

(a) A person commits disorderly conduct if he or she knowingly or recklessly:

(1) Makes loud or unreasonable noise in a public place or near a private residence which he or she has no right to occupy;

(2) Insults, taunts or challenges another in a manner likely to provoke and with the intention of provoking a breach of peace or violence;

(3) Fights with another in a public place except as part of an authorized amateur or professional contest of athletic skill;

(4) Disturbs the peace and quiet of any apartment, building, condominium, townhouse or neighborhood by loud or unreasonable noise between the hours of 10:00 p.m. and 7:00 a.m., or, as owner or person in possession or control of any building or premises, permits or allows, when it is in such person's power to prevent, loud or unreasonable noises in or upon such building or premises between the hours of 10:00 p.m. and 7:00 a.m. which disturbs the peace and quiet of the neighborhood in which such building or premises is situate;

(5) Discharges a firearm within the City or within one-fourth (¼) mile of the corporate boundary of the City or causes an explosion of powder or other combustible material, unless licensed or authorized to do so by the Chief of Police or Fire Chief; or

(6) Operates or allows to be operated any radio, stereo, amplifier, loudspeaker, television, musical instrument or other sound producing device, in or from real property located within three hundred (300) feet of any dwelling, which is plainly audible to the human ear at a distance of twenty-five (25) feet or more from the curb line immediately adjacent to the private real property from which the sound is emanating. This Subsection (a)(6) of this Section shall not apply to noise emanating from any publicly owned parks or facilities, nor from public or private property at an event for which the City has issued a revocable permit or a special event permit.

(b) Disorderly conduct is a Class 1 municipal offense. (Ord. No. 5167, 7-23-84; Ord. No. 6060, 2-26-96; Ord. No. 8213 §1, 6-14-10)

Sec. 11-1-202. Loitering.

(a) Definitions. When used in this Section:

(1) *Loitering* or *loiter* shall mean remaining idle in essentially one (1) location, to be dilatory or to tarry and shall include but not be limited to standing around, sitting, kneeling, sauntering or prowling.

(b) It shall be unlawful for any person to loiter:

(1) In a manner which obstructs any public street, highway or sidewalk or entrance to a public facility by hindering, impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

(2) In or upon any public street, public highway, public sidewalk or any other public place and engage in any act which obstructs or interferes with the free and uninterrupted use of the property or with any business lawfully conducted in or upon or facing orfronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress herein, thereon and thereto; or

(3) With the intent to interfere with or disrupt the school program or with the intent to interfere with or endanger school children, in a school building or on school 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.

(c) Loitering is a Class 2 municipal offense. (Ord. No. 5459, 2-22-88; Ord. No. 6254, 9-8-97)

Sec. 11-1-203. Indecent exposure.

(a) Definition. When used in this Section: *Sexual act* means any act of masturbation, fellatio, cunnilingus, sexual intercourse, bestiality, sodomy, insertion of one (1) or more fingers or objects into the vagina or anus, and caressing or fondling of the genitals of oneself or another.

(b) It is unlawful for any person to perform or engage in any sexual act in a public place or where the conduct may reasonably be expected to be viewed by members of the public.

(c) It is unlawful for any person to expose his or her genitals or buttocks in a public place or where the conduct may reasonably be expected to be viewed by members of the public, or for any female person over the age of twelve (12) years to expose that portion of her breasts consisting of the nipple or areolae in a public place or where the conduct may reasonably be expected to be viewed by members of the public.

(d) Subsection (c) of this Section shall have no application to showers or dressing or locker rooms associated with athletic facilities.

(e) Indecent exposure is a Class 1 municipal offense.

Sec. 11-1-204. Littering.

(a) Definition. For the purpose of this Section, the following definition shall apply: *Litter* means all or any rubbish, waste material, garbage, paper, trash, debris, cinders or noxious foreign substances, whether solid or liquid, of every form, size and description.

(b) It shall be unlawful for any person to dump, deposit, throw, drop, place or leave, or to cause, allow or permit the dumping, depositing, throwing, dropping, placing or leaving of any litter in or upon any public street, sidewalk, alley or other public place.

(c) It shall be unlawful for any person operating a motor vehicle to dump, deposit, throw, drop, place or leave litter from said vehicle, or to permit, allow or suffer such litter to be dumped, deposited, thrown, dropped, placed or left from said vehicle.

(d) Littering is a Class 2 municipal offense.

Sec. 11-1-205. Urinating or defecating in public.

(a) It shall be unlawful for any person to urinate or defecate upon the walls, floors, stairs or any other portion of any public building or on any street, alley, sidewalk, park, golf course or other public place within the City, other than a toilet facility provided for such purpose.

(b) Urinating in public is a Class 2 municipal offense.

Sec. 11-1-206. Invasion of privacy.

(a) It shall be unlawful for any person to intentionally peer, peep or look through doors or windows of any residence, apartment, dwelling unit, lodging house, hotel, motel or similar place of another, while on another's premises, or from a place of hiding or concealment, with the intent or purpose to spy on or watch such other person, or to invade his or her privacy.

(b) Invasion of privacy is a Class 1 municipal offense.

Sec. 11-1-207. Unlawful possession of an alcoholic beverage.

(a) Definitions. When used in this Section:

(1) *Alcoholic beverage* means any substance which is or contains ethyl alcohol except those substances which are manufactured, designed or intended primarily for a purpose other than oral human ingestion and those substances which are manufactured, designed or intended solely for medicinal or hygienic purposes.

(2) *To possess an alcoholic beverage* means that a person has or holds any amount of an alcoholic beverage anywhere on his or her person, that a person owns or has custody of an alcoholic beverage, or that a person has an alcoholic beverage within his or her immediate presence and control.

(3) *Public place within the City* means and includes public buildings and adjacent land, parks, streets, alleys, roads or highways, sidewalks, parking lots, and private parking areas and shopping centers open to the public. *Public place within the City* shall not include those areas of a licensed premises which are permitted under law to sell alcoholic beverages for consumption thereon.

(b) It is unlawful and a strict liability offense for any person under twenty-one (21) years of age to possess or consume an alcoholic beverage anywhere within the City, except:

(1) It shall be an affirmative defense to a violation of this Subsection (b) where such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such property and such person possessed or consumed an alcoholic beverage with the consent and in the actual immediate presence of his or her parent or legal guardian.

(2) The possession or consumption of an alcoholic beverage shall not constitute a violation of this Subsection (b) if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(3) The possession of an alcoholic beverage by an employee of a premises licensed to sell alcoholic beverages for consumption on the premises shall not constitute a violation of this Subsection (b) if the licensed premises serves meals and the employee is supervised by another employee on the premises who is at least twenty-one (21) years of age.

(c) It is unlawful for any person twenty-one (21) years of age or older to consume or to possess an alcoholic beverage in an open container in any public place within the City or inside any vehicle while upon any public place within the City.

(d) It is unlawful for any person twenty-one (21) years of age or older to consume or to possess an alcoholic beverage in an open container on any private property within the City without the knowledge and consent of the owner or legal possessor of such property.

(e) Except as permitted under Subsection (b) of this Section, it is unlawful and a Class 1 municipal offense for any person to sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty-one (21) years; provided, however, that this subsection shall not apply to any conduct which results, directly or indirectly, in death or serious bodily injury to any person.

(f) During any trial for a violation of any provision of this Section, any bottle, can or other container with labeling indicating the contents of such bottle, can or other container shall be admissible into evidence and 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 an alcoholic beverage. 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," "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 an alcoholic beverage.

(g) A violation of any provision of Subsections (a) through (d) of this Section shall constitute a Class 2 municipal offense. A violation of any provision of Subsection (e) of this Section shall constitute a Class 1 municipal offense. (Ord. No. 5590, 3-26-90; Ord. No. 6062, 3-25-96; Ord. No. 7401 §1, 11-28-05)

Sec. 11-1-208. Tobacco vending machines.

(a) It shall be unlawful for any person to sell or dispense cigarettes or other tobacco products through a vending machine or other coin-operated machine, or to possess or maintain any vending machine or other coin-operated machine containing cigarettes or other tobacco products within the City except:

(1) On premises licensed under the Colorado Liquor Code or Colorado Beer Code for on-premises consumption of alcoholic beverages or fermented malt beverages;

(2) Within private residences or private clubs; or

(3) On other premises which are not legally open or generally accessible to persons under the age of eighteen (18) years.

(b) Violation of any provision of this Section shall be a Class 2 municipal offense.

(c) Nothing contained in this Section shall be construed to permit the purchase, sale or furnishing of cigarettes or other tobacco products by or to any person under the age of eighteen (18) years. (Ord. No. 5658, 1-28-91)

Sec. 11-1-209. Sale, possession and use of tobacco products.

(a) Definitions. As used in this Section:

(1) *Minor* means any natural person who is under eighteen (18) years of age.

(2) *Tobacco product* means :

a. Any product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested, inhaled, smoked, placed in the oral or nasal cavities, or applied to the skin of an individual, including but not limited to, cigarettes, cigars, cigarillos, kreteks, bidis, hookah, and pipes; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour, snus, plug and twist, fine-cut, and other chewing or dipping tobacco; shorts, refuse scraps, clippings, cuttings, and seepings of tobacco; and any other kinds and forms of tobacco, prepared in such manner as to be suitable for both chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. Tobacco product also includes cloves and any other plant matter or product that is packaged for smoking; or

b. Any electronic device or any component thereof that can be used to deliver nicotine to the person inhaling from the device, including but not limited to, an electronic cigarette, cigar, cigarillo, hookah, pipe, or nicotine vaporizer; and nicotine or other chemical liquids, extracts, and oils intended to be used therein.

c. Notwithstanding any provision of paragraph a. of this subsection (2) to the contrary, "tobacco product" does not mean any product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.

(b) It shall be unlawful and a Class 2 municipal offense for any minor to possess, consume or use any tobacco product.

(c) It shall be unlawful and a Class 2 municipal offense for any minor to purchase, obtain or attempt to purchase or obtain any tobacco product by misrepresentation of age or by any other method.

(d) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

(e) It shall be unlawful and a Class 2 municipal offense for any person to knowingly furnish to any minor, by gift, sale or any other means, any tobacco product. It shall be an affirmative defense to a prosecution under this Subsection that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the minor receiving the tobacco product as being eighteen (18) years of age of older.

(f) No person younger than eighteen (18) years of age while employed at any retail or wholesale commercial enterprise shall sell, stock, retrieve or otherwise handle tobacco products in connection with such minor's assigned job duties or otherwise.

(g) Notwithstanding the provisions of this Section, it shall be unlawful and a Class 2 municipal offense for a person under eighteen (18) years of age to be admitted to or be on the premises of, when such premises is open for business, a retail tobacco store as defined in Section 7-6-3(15) of this Code or a Non-Cigarette Tobacco Product Retail Location as defined in Section 9-15-2(8) of this Code utilized primarily for the sale of non-cigarette tobacco products and accessories and in which the sale of other products is merely incidental.

(h) The owner, operator, manager or other person who controls a retail tobacco store shall display a warning sign as specified in this Subsection. The warning sign shall be displayed in a prominent place in the retail tobacco store at all times, shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO BE ON THE PREMISES OF THIS RETAIL TOBACCO STORE AND, UPON CONVICTION, A $300.00 FINE MAY BE IMPOSED.

(i) The owner, operator, manager or other person who controls a retail tobacco store shall display a sign as specified in this Subsection. The sign shall be displayed in a prominent place in the retail tobacco store at all times, shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:

SURGEON GENERAL'S WARNING

SMOKING CAN CAUSE LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY COMPLICATE PREGNANCY.

(Ord. No. 6268, 11-10-97; Ord. No. 7834 §1, 7-14-08; Ord. No. 8533 §2, 11-26-12; Ord. No. 8735, 5-12-14)

Sec. 11-1-210. Vehicles used in drive-by crimes; nuisance; abatement; violation.

(a) Declaration. Drive-by crimes render City residents, visitors, businesses and neighborhoods insecure in life and in the use of property. Such crimes and the instrumentalities used to commit such crimes constitute a continuing threat to the comfort, safety and health of the public. It is expressly declared that the use of vehicles for the commission of drive-by crimes constitutes a public nuisance within the City that should be eliminated or hindered, and thereby abated, by the means set forth in this Section.

(b) Definitions. As used in this Section:

(1) *Chief of Police* means the Chief of the Pueblo Police Department or his or her authorized representative.

(2) *Drive-by crime* shall have the same meaning as set forth in Section 16-13-301(2.2), C.R.S. (2008), as amended.

(3) *Innocent owner* means a record owner who neither participated in the commission of a drive-by crime, nor knew or reasonably should have known that the vehicle would be used in the commission of a drive-by crime.

(4) *Nuisance vehicle* means a vehicle which is used for concealment or transportation in the commission of a drive-by crime within the City; provided, however, that *nuisance vehicle* shall not include a vehicle with respect to which the record owner is an innocent owner.

(5) *Record owner* means the owner with respect to a vehicle as identified in the records of application and registration maintained by the Colorado Department of Revenue or, if the vehicle is registered outside the State, the records of application and registration maintained by the state in which the vehicle is registered. If such record owner establishes that the vehicle was transferred to a bona fide transferee before the occurrence of the related drive-by crime, the *record owner* shall mean and include said transferee.

(6) *Vehicle* means any self-propelled device which is capable of moving itself from place to place upon wheels, which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways.

(c) Abatement. If the Chief of Police finds and determines upon probable cause that a vehicle is a nuisance vehicle, the Chief of Police shall serve written notice and order upon the record owner, which notice and order shall provide:

(1) A description of the vehicle, including make, model and vehicle identification number.

(2) A statement that the vehicle has been used in the commission of a drive-by crime and identification of the approximate date and location of said crime.

(3) Notice that the vehicle has been determined to be a nuisance vehicle pursuant to this Section.

(4) An order prohibiting the record owner from using or operating or permitting the use or operation of the nuisance vehicle for a period of six (6) months other than such use or operation which is necessary to deliver possession of such vehicle to the Chief of Police.

(5) An order directing the record owner to deliver immediate possession of the vehicle to the Chief of Police, unless such vehicle has otherwise been lawfully seized.

(6) That violation of a final notice and order is a criminal offense subject to fine and/or jail sentence.

(7) That the owner may appeal such notice and order as provided in this Section.

A courtesy copy of said notice and order shall be mailed by first-class mail, postage prepaid, to all lienholders of record.

(d) Appeals; stay; release of vehicle.

(1) The record owner of a nuisance vehicle may appeal a notice and order by filing written notice of such appeal with the Municipal Court Clerk within ten (10) days after service of the notice and order.

(2) The timely filing of an appeal shall stay the notice and order until such time as a hearing may be held. Any notice and order which is not timely appealed shall be a final notice and order.

(3) Any vehicle which is the subject matter of a final notice and order shall not be released to the record owner except upon the following conditions:

a. Compliance with the notice and order and expiration of the six-month period set forth in the notice and order; and

b. Payment of all storage fees incurred by the City with respect to the vehicle. Such fees shall be commensurate with, but shall not exceed, the maximum rate that a towing carrier may charge for a nonconsensual tow of a motor vehicle as set forth in Rule 6511, 4 Code of Colorado Regulations 723-6 (2008), as amended.

c. Any vehicle which remains unclaimed after the six-month period set forth in the notice and order may be sold by the City pursuant to the procedure set forth in Paragraph 15-1-8(a)(25) of this Code, for sale of abandoned and impounded vehicles. All unpaid storage fees owed pursuant to Subparagraph b. above shall constitute a lien upon the vehicle and superior to all other liens of any nature.

(e) Hearing on appeal. The hearing officer, with respect to any appeal filed pursuant this Section, shall be the Municipal Court Judge. Such hearings shall be conducted as quasi-judicial hearings in accordance with the provisions of Title I of this Code.

(1) Time and notice of hearing. A hearing shall be set within ten (10) business days of filing the notice of appeal. Notice of the hearing date shall be served personally or by mailing the same by first-class mail, postage prepaid, to the record owner at his or her address set forth in the appeal.

(2) Burden of proof. The City shall have the burden of proof by a preponderance of the evidence with respect to establishing that the vehicle is a nuisance vehicle.

(3) Decision on appeal. If the hearing officer determines that the vehicle is not a nuisance vehicle, the hearing officer shall reject and rescind the notice and order. If the hearing officer determines that the vehicle is a nuisance vehicle, the hearing officer shall sustain the notice and order, and, for the purposes of this Section and unless otherwise stayed by the District Court, the notice and order shall be final.

(f) Judicial review. The decision of the hearing officer may be appealed to the District Court pursuant to Section 1-7-14 of this Code. The hearing officer shall not stay the decision pending any such appeal.

(g) Violation. It shall be unlawful and a municipal offense for any person to fail to comply with a properly served and final notice and order. Any person convicted of violating this Section shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

(h) Limitations.

(1) No notice and order shall be served upon a record owner who does not reside within the City, unless such record owner participated in the drive-by crime.

(2) This Section is not intended to authorize any act expressly prohibited by state law or to forbid any conduct expressly authorized by state law. The provisions of this Article shall be construed to avoid any such direct and express conflict. (Ord. No. 7867 §1, 8-25-08; Ord. No. 8089 §1, 10-13-09)

Article III
Offenses Against Persons

Sec. 11-1-301. Battery.

(a) A person commits the offense of battery in violation of this Section if he or she knowingly causes bodily injury to another person; provided, however, that this Section shall have no application where there is serious bodily injury, where a deadly weapon is used, where the victim is sixty (60) years of age or older, or where the victim is disabled because of the loss of or permanent loss of use

of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness.

(b) Battery is a Class 1 municipal offense. (Ord. No. 5351, 10-14-86)

Sec. 11-1-302. Menacing.

(a) A person commits the offense of menacing in violation of this Section if, by any threat or physical action, but without the use of a deadly weapon, he or she intentionally places or attempts to place another person in fear of imminent bodily injury.

(b) Menacing is a Class 1 municipal offense.

Sec. 11-1-303. Harassment.

(a) A person commits the offense of harassment if, with intent to harass, annoy or alarm another person, he or she:

(1) In a public place directs obscene language or makes an obscene gesture to or at another person;

(2) Follows a person in or about a public place;

(3) Initiates communication with a person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computing 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, computing network or computer system which is obscene;

(4) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(5) 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

(6) Repeatedly insults, taunts, challenges or communicates with another in a manner intended to cause a reasonable person to feel fear, intimidation or annoyance.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by Paragraph (a)(3) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. Any acts prohibited by Paragraph (a)(4) of this Section

may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

(d) Harassment is a Class 1 municipal offense. (Ord. No. 6152, 11-25-96; Ord. No. 7873 §1, 9-8-2008; Ord. No. 8485 §1, 6-11-12)

Article IV
Offenses Against Property

Sec. 11-1-401. Theft from a merchant.

(a) It shall be unlawful for any person to obtain or exercise control over any meals, goods, services or accommodations having a value of less than one thousand dollars ($1,000.00) which are the property of another exposed or available for sale or available to rent or for hire, with the intent to convert the same to his or her own use without payment of the purchase price or rent therefor.

(b) Theft from a merchant is a Class 1 municipal offense. (Ord. No. 5351, 10-14-86; Ord. No. 5763, 7-27-92; Ord. No. 6462, 8-9-99; Ord. No. 7643 §1, 8-27-07)

Sec. 11-1-402. Damaging, defacing or destruction of property.

(a) It shall be unlawful for any person to knowingly damage, deface, destroy or injure the real or personal property of one (1) or more other persons in the course of a single episode where the aggregate damage to the real or personal property is less than one thousand dollars ($1, 000.00).

(b) Damaging, defacing or destruction of property is a Class 1 municipal offense, provided that if the person found guilty of violating Subsection (a) was under eighteen (18) years of age on the date of violation, the court shall not impose a jail sentence. (Ord. No. 5351, 10-14-86; Ord. No. 5763, 7-27-92; Ord. No. 5975, 6-12-95; Ord. No. 6236, 8-25-97; Ord. No. 6350, 9-28-98; Ord. No. 7643 §2, 8-27-07)

Sec. 11-1-403. Damaging, defacing or destruction of City property.

(a) It shall be unlawful for any person to knowingly damage, deface, destroy or injure the real or personal property of the City in the course of a single episode where the aggregate damage to the real or personal property is less than one thousand dollars ($1, 000.00).

(b) Damaging, defacing or destruction of City property is a Class 1 municipal offense, provided that if the person found guilty of violating Subsection (a) was under eighteen (18) years of age on the date of violation, the court shall not impose a jail sentence. (Ord. No. 5351, 10-14-86; Ord. No. 5763, 7-27-92; Ord. No. 5975, 6-12-95; Ord. No. 6236, 8-25-97; Ord. No. 6350, 9-28-98; Ord. No. 7643 §3, 8-27-07)

Sec. 11-1-404. Throwing stones or missiles.

(a) It shall be unlawful for any person to throw any stone or other missile upon or at any vehicle, building, tree or other public or private structure, or upon or at any person in any vehicle, building or other public or private structure.

(b) Throwing stones or missiles is a Class 2 municipal offense.

Sec. 11-1-405. Nuisances.

(a) Definitions. As used in this Section:

(1) *Nuisance* shall mean any substance, condition or activity which results in a condition detrimental to the health or safety of any of the inhabitants of the City, and includes but is not limited to those substances, conditions and activities specifically deemed to be nuisances either by this Chapter or by any other ordinance of the City.

(2) *Wild or dangerous animal* shall mean and include any and all species of: (i) poisonous reptiles; (ii) lizards belonging to the family *Varanidae*; (iii) crocodilians with a length greater than one (1) foot; (iv) all species of nonhuman mammals excepting the: (A) domestic cat (*Felis catus*); (B) Chinchilla (*Chinchilla laniger*); (C) domestic dog (*Canus familiaris*); (D) domestic ferret (*Mustelaputoris furo*); (E) Mongolian gerbil (*Meriones unguicularus*); (F) guinea pig (*Cavia porcellus*); (G) hamster (*Mesocricetus auratus*); (H) domestic mouse (*Mus domesticus*); (I) domestic rabbit (*Orycholagus cuniculus*); (J) domestic rat (*Rattus rattus* albino strain); (K) squirrel monkey (*Saimiri scuirous*); (L) owl monkey (*Aotus trivirgatus*); (M) wooley monkey (*Lagothrix lagothrica*); (N) horse; (O) mule; (P) donkey; (Q) burro; (R) cow or bull; (S) sheep; (T) goat; (U) pig; (V) chicken; (W) goose; (X) duck; (Y) turkey; or (Z) honeybee, provided, however, that the number of honeybees does not exceed the number contained in two (2) beehives located on the same property. For purposes of subparagraph (Z), a beehive shall mean any container housing no more than one (1) colony of honeybees including one (1) queen bee.

(b) Specific nuisances. The following substances, activities or conditions are hereby expressly deemed to be detrimental to the health or safety of the inhabitants of this City and are nuisances:

(1) Any pool, pond or other accumulation of stagnant water.

(2) The keeping or maintenance of harmful biological, radiological or chemical agents in such a manner or condition that they constitute a danger to human, animal or plant life.

(3) The accumulation of manure, feces or other organic matter if offensive odors are emitted or if it attracts insects or rodents or otherwise creates a hazard to the public health or safety.

(4) The keeping or harboring of any wild or dangerous animals except for use or display in connection with the City zoo or any circus, rodeo, livestock show or scientific exhibition, when approved in writing by the City Manager.

(5) The construction, installation, erection, keeping or maintenance of a barbed wire, electrically charged, sheet metal or corrugated metal fence or fences on any property located within a residential zone district.

(6) Any private property or premises on or in which three (3) or more offenses defined in Section 11-1-201(a)(2) or (4) have occurred within one hundred eighty (180) days.

(c) Unlawful acts.

(1) It shall be unlawful and a Class 2 municipal offense for any person to create, maintain, permit or suffer any nuisance to exist or remain within the City.

(2) Each continuance of a nuisance for twenty-four (24) hours shall be considered a separate and distinct violation of this Chapter.

(d) Abatement. The City Manager and the Health Officer are each hereby authorized to abate or enjoin any nuisances found to exist in the City, whether or not such nuisance is specifically recognized by ordinance.

(e) Abatement Procedure.

(1) Whenever any nuisance shall be found, the City Manager or the Health Officer shall order the owner or occupant of the property upon which the nuisance shall exist, or such person who shall have caused or permitted such nuisance, at his or her own expense to remove or correct the same within twenty-four (24) hours. If the owner or occupant or person who shall have caused or permitted such nuisance shall not comply with the order of the City Manager or the Health Officer, the City Manager or Health Officer may cause the nuisance to be removed or corrected and all expenses incurred thereby shall be paid by said owner or occupant or by such other person who shall have caused or permitted the same, and may be recovered by the City in an action against the person or occupant.

(2) In all cases where the City Manager or the Health Officer shall incur any expense for abating any nuisance found upon any lot or premises, the expense of such abatement, plus twenty-five percent (25%) for incidental costs, may be charged against the lot or premises upon or on account of which such expense was incurred, or from which such nuisance was removed or abated. A bill for such expense shall be mailed to the owner or the person who shall have caused or permitted the condition to exist, and if the same shall not be paid on or before September 1 next following, the City Manager shall add another twenty-five percent (25%) as penalty and shall cause the same to be brought before the City Council for assessment upon such lot or premises upon which the nuisance existed or from which the nuisance emanated and collection as provided in the case of weed removal.

(3) All remedies classified herein are cumulative, and the exercise of one (1) shall not be deemed to prevent the exercise of another or to bar or abate any prosecution or petition for injunction hereunder. (Ord. No. 5045, 4-25-83; Ord. No. 5340, 8-25-86; Ord. No. 6339, 8-10-98)

Sec. 11-1-406. Trespass.

(a) It is unlawful and a Class 2 municipal offense for any person to enter or remain upon the premises of another when consent to enter or remain is absent, denied or withdrawn by the owner, occupant or person having lawful control thereof.

(b) It shall be prima facie evidence that consent is absent, denied or withdrawn to enter or remain upon the premises of another when:

(1) Any person fails or refuses to remove himself or herself from said premises when requested to leave by the owner, occupant or person having lawful control thereof;

(2) Such premises are locked, boarded up or fenced or otherwise enclosed in a manner designed to exclude intruders; or

(3) Such premises are not open to the public and are posted with conspicuous signs that give notice that entrance therein is forbidden. *Conspicuous signs* means signs that are at least one (1) square foot in size and sufficiently lighted to be clear and visible and posted in a conspicuous location.

(c) For the purpose of this Section, *premises* means any privately or publicly owned real property, buildings, structures and other improvements thereon, but shall not include motor vehicles or dwellings. (Ord. No. 6308, 4-27-98; Ord. No. 7482 §1, 7-10-06)

Sec. 11-1-407. Theft.

It shall be unlawful and a Class 1 municipal offense for any person to knowingly obtain or exercise control over any thing of value of another without authorization and with the intent to permanently deprive the other person of the use or benefit of the thing of value; provided, however, that this Section shall have no application:

(1) Where the thing of value has a value of one thousand dollars ($1, 000.00) or more or is intangible personal property;

(2) Where the other person (victim) is sixty (60) years of age or older and the offense is committed in such person's presence;

(3) Where the other person (victim) is disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness and the offense is committed in such person's presence; or

(4) Where the thing of value is a motor vehicle part which has a value of one thousand dollars ($1,000.00) or more removed from a motor vehicle during the theft. (Ord. No. 5351, 10-14-86; Ord. No. 5763, 7-27-92; Ord. No. 6462, 8-9-99; Ord. No. 7643 §4, 8-27-07)

Article V
Crimes Relating to Government Operations

Sec. 11-1-501. Resisting arrest.

(a) It is unlawful for any person to knowingly prevent or attempt to prevent a police 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 police officer or another; or

(2) Using any other means which creates a risk of causing bodily injury to the police officer or another.

(b) It is no defense to a charge under Subsection (a) of this Section that the police officer was attempting to make an unlawful arrest.

(c) Resisting arrest is a Class 1 municipal offense.

Sec. 11-1-502. Interference.

(a) It is unlawful for any person to knowingly obstruct, hinder or interfere with a police officer, fireman, Park Ranger, or any member of the police department, fire department or city-county health department, acting under color of his or her official authority, in the discharge or apparent discharge of his or her duties:

(1) By means of physical force or violence or by threats of imminent physical force or violence; or

(2) By means of harassing conduct after being warned by a police officer or fireman that such conduct is unlawful and may result in the arrest of the person if such conduct is not discontinued.

(b) Interference is a Class 2 municipal offense; except that interference by means of physical force or violence or by threats of physical force or violence is a Class 1 municipal offense. (Ord. No. 8352 §2, 5-23-11)

Sec. 11-1-503. Escape from custody.

(a) It shall be unlawful for any person, while in the custody or confinement of any police officer or any member of the Police Department, while confined in the City jail, or while serving a sentence imposed by the Municipal Court to any community corrections facility, to escape or attempt to escape from such custody or confinement.

(b) Escape is a Class 1 municipal offense. (Ord. No. 5645, 11-26-90)

Sec. 11-1-504. False reporting.

(a) It shall be unlawful for any person to knowingly:

(1) Make or cause to be made a false alarm of a fire or other emergency; or

(2) Make or cause to be made a false, misleading or unfounded report to the Police Department concerning the commission or alleged commission by another person of any offense or violation of any City ordinance; or

(3) Give false or misleading information to an officer or employee of the City when such officer or employee is acting in his or her official capacity and the information (i) relates to a matter within the official concern of the officer or employee and (ii) materially interferes with the discharge of such officer's or employee's official duty.

(b) False reporting is a Class 1 municipal offense.

Sec. 11-1-505. Impersonating a City officer or employee.

It shall be unlawful and a Class 1 municipal offense for any person to falsely represent himself or herself to be an officer or employee of the City.

Sec. 11-1-506. Curfews in public parks.

(a) It shall be unlawful and a Class 2 municipal offense for any person except an employee of the City acting in the discharge of his or her duties to be or remain in any public park of the City between the hours of 10:00 p.m. and 6:00 a.m. according to the official time standard which is then in effect.

(b) It shall be an affirmative defense to any prosecution under this Section that the person possesses a permit issued by the Director of Parks and Recreation granting permission to remain in a public park during curfew hours.

Sec. 11-1-507. Unlawfully riding public conveyances.

It shall be unlawful and a Class 2 municipal offense for any person to ride or attempt to ride in or upon any public conveyance without payment of the fare therefor unless authorized to do so by the owner of said public conveyance.

Article VI
Miscellaneous Offenses

Sec. 11-1-601. Carrying weapons.

(a) Definitions. As used in this Section:

(1) *Firearm* means any instrument or device capable of discharging bullets, cartridges or other projectiles by explosive charge, excluding handguns as defined herein, but specifically including and not limited to rifles, shotguns or other guns whose barrel, not including any revolving, detachable or magazine breech, exceeds twelve (12) inches in length.

(2) *Handgun* shall have the same meaning as set forth in Section 18-12-202(4), C.R.S.

(3) *Private property* means any building or specific area not owned, possessed, managed or controlled by the City.

(4) *Weapon* means any instrument or device commonly and generally known to be capable of inflicting serious bodily injury, excluding firearms and handguns as defined herein, but specifically including and not limited to:

a. Any dagger, dirk, knife or stiletto with a blade over three and one-half (3½) inches in length; or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds;

b. Any bludgeon, blackjack, billy club, sand club, sandbag or other hand operated striking weapon consisting, at the striking end, of any encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact;

c. Any cross knuckles, or knuckles of lead, brass or other metal; and

d. Any stun gun or device capable of temporarily immobilizing a person by the infliction of an electrical charge.

(b) It shall be unlawful and a Class 1 municipal offense for any person, within the City, to carry a firearm, handgun or weapon concealed on or about his or her person.

(c) It shall be unlawful and a Class 1 municipal offense for any person to openly carry any firearm, handgun or weapon in a building or specific area owned, possessed, managed or controlled by the City at which the City has posted signs at the public entrances to the building or specific area prohibiting the open carrying of firearms, handguns or weapons.

(d) It shall be unlawful and a Class 1 municipal offense for any person to carry any firearm, handgun or weapon upon the private property of another where signs have been posted at the entrance to the private property prohibiting the carrying of firearms, handguns or weapons.

(e) It shall not be a violation of any provision of this Section if, at the time of the act of carrying the firearm, handgun or weapon, the defendant was:

(1) A person in his or her own dwelling or place of business or on property owned by him or her or under his or her control; or

(2) A person in a private automobile or other private means of conveyance who carried the firearm, handgun or weapon for hunting or lawful protection of his, her or another's person or property while traveling; or

(3) A sheriff, undersheriff, deputy sheriff, police officer, coroner, marshal, any officer, guard or supervisory employee of any institution within the Colorado Department of Corrections, a district attorney, assistant district attorney or deputy district attorney, an authorized investigator of a district attorney or the attorney general, a probation or parole officer, an officer or member of the Colorado National Guard while acting under call of the Governor in cases of emergency or civil

disorder, an agent of the Colorado Bureau of Investigation, a wildlife conservation officer, a parks and recreation officer or a security guard employed by this State.

(f) It shall not be a violation of Subsection (b) of this Section, which prohibits the carrying of a concealed handgun, if the defendant, at the time of the act of carrying the concealed handgun, held a valid written permit to carry a concealed handgun pursuant to Section 18-12-105, C.R.S. (Ord. No. 7020, §1, 7-28-03)

Sec. 11-1-602. Substance abuse.

(a) 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 Subsection, nor shall any person knowingly aid any other person to use any such substance for the purposes described in this Subsection. This Subsection shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(b) Any person who knowingly violates the provisions of Subsection (a) of this Section commits the offense of abusing toxic vapors. Abusing toxic vapors is a Class 1 municipal offense, except that no person shall receive a sentence to confinement in jail for being convicted of a first offense pursuant to this Subsection. Any person convicted of a second or any subsequent offense pursuant to this Subsection may receive a sentence to confinement in jail.

(c) For the purposes of this Section, the term *toxic vapors* means the following substances or products containing such substances:

(1) Alcohols, including methyl, isopropyl, propyl or butyl;

(2) Aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;

(3) Acetone;

(4) Benzene;

(5) Carbon tetrachloride;

(6) Cyclohexane;

(7) Freons, including Freon 11 and Freon 12;

(8) Hexane;

(9) Methyl ethyl ketone;

(10) Methyl isobutyl ketone;

(11) Naphtha;

(12) Perchlorethylene;

(13) Toluene;

(14) Trichloroethane; or

(15) Xylene.

(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 (c) of this Section 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. No. 5521, 12-27-88; Ord. No. 6059, 2-26-96)

Sec. 11-1-603. Unused refrigerators.

It shall be unlawful and a Class 2 municipal offense for any person to store, maintain, abandon or place any unused icebox or refrigerator in any place or location whatsoever which is accessible to children, without first removing the lids, covers or doors of any such icebox or refrigerator.

Sec. 11-1-604. Sunday auto sales.

It shall be unlawful and a Class 2 municipal offense for any person, whether owner, proprietor, agent or employee, to keep open, operate or assist in keeping open or operating any place or premises or residences, whether open or enclosed, for the purpose of selling, bartering or exchanging or offering for sale, barter or exchange, any motor vehicle, whether new, used or secondhand, on the first day of the week, commonly called Sunday.

Sec. 11-1-605. Fortune-telling.

(a) It shall be unlawful and a Class 2 municipal offense for any person to solicit or receive any compensation, gratuity or reward for practicing fortune-telling, palmistry or clairvoyance without a valid license therefor issued by the City; provided, however, that the provisions of this Section as it relates to clairvoyance shall not be applicable to bona fide participation in religious worship of any legally constituted religious body which has been exempted by the United States Treasury Department under the Internal Revenue Code from paying federal income tax.

(b) Fortune-telling licenses shall be subject to the provisions of Chapter 1 of Title IX of this Code and issued by the License Officer. In addition to the information to be submitted for licenses required by Section 9-1-6, an applicant for a fortune-telling license shall submit a complete statement of all convictions of the applicant for any felony or misdemeanor, except misdemeanor traffic offenses.

(c) The annual nonrefundable fee for a fortune-telling license shall be twenty-five dollars ($25.00) and shall be paid at the time an application is filed. The annual license fee may be modified by resolution adopted by the City Council. (Ord. No. 6710, 7-23-01)

Sec. 11-1-606. Smoking in elevators and in public conveyances.

Within the City, it shall be unlawful and a Class 2 municipal offense for any person to smoke or possess any lighted or burning pipe, cigar or cigarette in or upon any elevator or in or upon any motor bus or other means of public conveyance operating under established schedules.

Sec. 11-1-607. Noise.

(a) The making and creating of an excessive or unusually loud noise, or a noise which is unreasonable and objectionable because it is impulsive, continuous, rhythmic, periodic or shrill within the City as heard and measured in the manner prescribed by Subsection (b) of this Section is hereby declared to be a public nuisance, unlawful and a Class 2 municipal offense.

(b) Classification and Measurement of Noise. For purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this Section, the following test measurements and requirements shall be applied.

(1) Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at least twenty-five (25) feet from the property line of the property on which the noise source is located.

(2) The noise shall be measured on the "A" weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

(3) For purposes of this Section, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour, or twenty-five (25) miles per hour with a wind screen.

(4) In all sound level measurements, consideration shall be given to the effect of the ambient noise of the environment from all sources at the time and place of such level measurement.

(c) Definitions: As used in this Section, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this Section:

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

(2) *db(A)* means sound levels in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, publication S.4 - 1970 and approved by the Industrial Commission of Colorado.

(3) *Residential zone* means an area of single-family or multifamily dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple unit dwellings, high-rise apartment districts and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office

development, but it may not include retail shopping facilities. *Residential zone* includes hospitals, nursing homes and similar institutional facilities.

(4) *Commercial zone* means:

a. An area where offices, clinics and the facilities needed to serve them are located;

b. An area with local shopping and service establishments located within walking distances of the residents served;

c. A tourist-oriented area where hotels, motels and gasoline stations are located;

d. A large integrated regional shopping center;

e. A business strip along a main street containing offices, retail businesses and commercial enterprises;

f. A central business district; or

g. A commercially dominated area with multiple unit dwellings.

(5) *Light industrial and commercial zone* means:

a. An area containing clean and quiet research laboratories;

b. An area containing light industrial activities which are clean and quiet;

c. An area containing warehousing; or

d. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.

(6) *Industrial zone* means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operations.

(7) *Motor vehicle sound system* means any radio, tape player, CD player, amplifier, speakers or other electronic components located in or upon any motor vehicle and used or capable of being used for the production of sound.

(d) Maximum Permissible Noise Levels:

(1) Every activity to which this Section is applicable shall be conducted in a manner so that any noise produced is not objectionable due to intermittence, beat, frequency or shrillness. Sound levels of noise radiating from the property line at a distance of twenty-five (25) feet or more therefrom, in excess of the db(A) established for the time period and zones listed in this Section, shall constitute prima facie evidence that such noise is a public nuisance.

Zone	***7:00 a.m. to next 7:00 p.m.***	***7:00 p.m. to next 7:00 a.m.***
Residential	55 db(A)	50 db(A)

Commercial	60 db(A)	55 db(A)
Light Industrial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)

(2) In the hours between 7:00 a.m. and the next 7:00 p.m., the noise levels permitted in Subsection (a) of this Section may be increased by ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one-hour period.

(3) Periodic, impulsive or shrill noises shall be considered a public nuisance when such noises are at a sound level of five (5) db(A) less than those listed in Subparagraph (1) of this Subsection.

(4) This Section is not intended to apply to the operation of aircraft, or to other activities which are subject to federal law with respect to noise control.

(5) Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of the project.

(6) All railroad rights-of-way shall be considered as industrial zones for the purposes of this Section, and the operation of trains shall be subject to the maximum permissible noise levels specified for such zone.

(7) This Section is not applicable to the use of property for purposes of conducting speed or endurance events involving motor or other vehicles, but such exception is effective only during the specific period or periods of time within which such use of the property is authorized by the political subdivision or governmental agency having lawful jurisdiction to authorize such use.

(8) This Section is not applicable to the Colorado State Fairgrounds or the use thereof when duly authorized by the Colorado State Fair Authority.

(9) This Section is not applicable to six hundred (600) or more megawatt electric power generation facilities which are operated and maintained in compliance with the noise levels and standards set forth in the state noise regulations, currently codified as Section 25-12-103, C.R.S. (as now or hereafter adopted).

(e) Motor Vehicle Noise Levels:

(1) It shall be unlawful and a Class 2 municipal 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 which emits a sound pressure level in excess of the db(A) established in Table I of this Subsection. Noise from a motor 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 and at a height of at least four (4) feet above the immediate surrounding surface on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

(2) Noise from a motor vehicle which is located other than within the public right-of-way shall be measured at a distance at least twenty-five (25) feet from said motor vehicle and at a

height of at least four (4) feet above the immediate surrounding surface on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

(3) Table I.

Maximum Permissible Sound Pressure Levels

Vehicle class	*25 ft. (7.5 m)*
Any vehicle greater than 10,000 lbs. manufacturer's gross vehicle weight other than an Interstate Motor Carrier	88
Any motorcycles	80
Any other motor vehicle	80

(4) Mufflers – Prevention of Noise: It shall be unlawful and a Class 2 municipal 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 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 Table I above.

(f) Vehicle Sound Systems.

(1) Notwithstanding any other provision in this Section or in Section 11-1-201 of this Chapter, and in addition thereto, it shall be unlawful and a Class 2 municipal offense for any person to operate or use, or cause or suffer to be operated or used, any motor 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 Paragraph (f)(2) of this Section and is in effect. The driver of any vehicle upon which is located a motor vehicle sound system which is plainly audible at a distance of twenty-five (25) feet from the motor vehicle shall be presumed to be operating, using or causing the operation of such motor vehicle sound system.

(2) Any persons desiring to operate any motor 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 motor vehicle shall first obtain a permit therefor from the City License Officer in accordance with this Subsection and Chapter 1 of Title IX of this Code. The permit may authorize such use or operation of 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 to the information required by Chapter 1 of Title IX of this Code, the application for a permit shall provide the following information:

a. The name, address and telephone number of the owner and user of the motor vehicle sound system;

b. The license number of the motor vehicle which is to be used and proof of motor vehicle insurance for such vehicle;

c. A general description of the sound amplifying equipment which is to be used;

d. A statement whether the use of the motor vehicle sound system will be used for commercial or noncommercial purposes; and

e. The date or dates, not exceeding three (3), during which the system is proposed to be operated.

(g) The provisions of this Section shall have no applicability to authorized emergency vehicles, as defined in the Model Traffic Code for Colorado Municipalities, as adopted and amended by Title XV of the Pueblo Municipal Code, as amended, nor to sound produced by any sirens or horns on such vehicles or other noise emanating from such vehicles. (Ord. No. 5935, 2-13-95; Ord. No. 7373 §1, 9-12-05; Ord. No. 8212 §1, 6-14-10)

Sec. 11-1-608. Marijuana, prohibited acts.

(a) As used in this Section, *marijuana* means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana concentrate. This term shall not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product. As used in this Section, *marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use and consumption, such as, but not limited to, edible products, ointments and tinctures.

(b) It shall be unlawful and a Class 1 municipal offense for any person to smoke, consume or use marijuana or marijuana products openly and publicly or in a manner that endangers others.

(c) It shall be unlawful and a Class 1 municipal offense for any person under twenty-one (21) years of age to possess, smoke, consume or use marijuana or marijuana products; provided, however, this Subsection (c) shall not apply to any person licensed or authorized to possess or use marijuana or marijuana products pursuant to the laws of Colorado or the United States while possessing or using same in accordance with the requirements and limitations of such license or authorization.

(d) It shall be unlawful and a Class 1 municipal offense for any person twenty-one (21) years of age or older to possess more than one (1) ounce of marijuana; provided, however, this Subsection (d) shall not apply to any person licensed or authorized to possess marijuana pursuant to the laws of Colorado or the United States while possessing same in accordance with the requirements and limitations of such license or authorization. (Ord. No. 8592 §1, 5-28-13)

Sec. 11-1-609. Possession of drug paraphernalia.

(a) Definition. As used in this Section, *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 the laws of the State. *Drug paraphernalia* includes, but is not limited to:

(1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of the laws of the State;

(2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

(3) Separation bins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

(5) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(6) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

(7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs; or

m. Ice pipes or chillers.

As used in this Section, *marijuana accessories* means any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

(b) Evidentiary consideration.

(1) In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

a. Statements by an owner or by anyone in control of the object concerning its use;

b. The proximity of the object to controlled substances;

c. The existence of any residue of controlled substances on the object;

d. Instructions, oral or written, provided with the object concerning its use;

e. Descriptive materials accompanying the object which explain or depict its use;

f. The existence and scope of legal uses for the object in the commodity; and

g. Expert testimony concerning its use.

(2) In the event a case brought pursuant to this Section is tried before a jury, the Court shall hold an evidentiary hearing on issues raised pursuant to this Section. Such hearing shall be conducted in camera.

(c) Possession prohibited. It is unlawful and a Class 2 municipal offense for:

(1) Any person under twenty-one (21) years of age to possess drug paraphernalia when said person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State of Colorado.

(2) Any person twenty-one (21) years of age or older to possess drug paraphernalia, other than marijuana accessories, when said person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State of Colorado. (Ord. 7276 §2, 2-28-05; Ord. 8592 §2, 5-28-13)

Sec. 11-1-610. Prostitution and related offenses.

(a) For purposes of this Section, the following definitions shall apply:

Anal intercourse: means contact between human beings of the genital organs of one and the anus of another.

Cunnilingus: means any act of oral stimulation of the vulva or clitoris.

Fellatio: means any act of oral stimulation of the penis.

Masturbation: means any stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

Prostitution: means to perform, agree to perform, offer to perform or to solicit any act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with any person not his or her spouse in exchange for money or any other thing of value.

(b) It shall be unlawful for any person to:

(1) Commit prostitution;

(2) Induce another person by threats, menacing or criminal intimidation to commit prostitution;

(3) Knowingly arrange or offer to arrange a situation in which a person may practice prostitution;

(4) Arrange or offer to arrange a meeting of persons for the purpose of prostitution;

(5) Direct another to a place knowing that such direction is for the purpose of prostitution;

(6) Knowingly grant or permit the use of any place for the purpose of prostitution;

(7) Permit the continued use of a place for the purpose of prostitution after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution;

(8) Enter or remain in a place of prostitution with intent to engage in an act of prostitution; or

(9) Further the practice of prostitution by word, gesture or action.

(c) Violation of this Section shall be a Class 1 Municipal Offense punishable by a fine not exceeding one thousand dollars ($1,000.00), imprisonment for up to one year or by both such fine and imprisonment.

(d) The Municipal Court shall order any person convicted under Paragraph (b)(1) of this Section to undergo diagnostic testing for the human immunodeficiency virus (HIV) as provided in Section 18-7-205.5, C.R.S. The results of the test shall be reported and kept confidential as provided in Section 18-7-205.5, C.R.S. The Municipal Court shall order each defendant convicted under Paragraph (b)(1) of this Section to pay the costs of such testing.

(e) The Municipal Court shall impose a surcharge on each defendant convicted under this Section in the amount of three hundred dollars ($300.00) to help defray the costs of enforcing this Section and HIV testing of indigent persons convicted under Paragraph (b)(1) of this Section. (Ord. No. 8270 §1, 10-12-10)

Article VII
Offenses Relating to Minors

Sec. 11-1-700. Life jackets required in the White Water Park.

It shall be unlawful and a Class 2 municipal offense for any person to enter on or be in the Arkansas River within the Arkansas River Legacy White Water Park without a U.S. Coast Guard approved type 1, 2, 3 or 5 personal flotation device being securely attached to his or her body. For purposes of this Section *Arkansas River Legacy White Water Park* means that portion of the Arkansas River commencing where the Arkansas River flows beneath the northerly edge of the Fourth Street Bridge downstream to one hundred (100) feet south of the location where the Arkansas River flows beneath the Santa Fe Bridge, provided, however, that it shall not be unlawful for any person to fish in or upon the Arkansas River without a personal flotation device in that portion of the Arkansas River Legacy White Water Park lying between the northerly edge of the Union Avenue Bridge and the location one hundred (100) feet south of the Santa Fe Bridge. (Ord. No. 7374 §1, 9-26-05)

Sec. 11-1-701. Misrepresentation of age.

(a) It shall be unlawful and a Class 2 municipal offense for any person under the age of twenty-one (21) years to exhibit false or fictitious identification or documents or otherwise misrepresent his or her true age or identity for the purpose of gaining entry to any place prohibited to minors of his or her true age or for the purpose of obtaining possession of any article or item prohibited to minors of his or her true age.

(b) Nothing in this Section shall be construed as relieving the proprietor of any place prohibited to minors from his or her legal responsibility with respect thereto or of relieving the vendor of articles or items prohibited to minors from his or her legal responsibility with reference to such sales.

Sec. 11-1-702. Regulation of airguns.

(a) Definitions. As used herein:

(1) *Airgun* means any gun, rifle or pistol capable of discharging metal pellets or BB shot which is powered by compressed air or by the action of a spring or elastic.

(2) *Dealer* means any person engaged in whole or in part in the business of selling at retail or renting any airguns.

(3) *Required warning* means a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with lettering of at least one-half (1/2) inch in height, which states as follows:

WARNING: IT IS ILLEGAL TO SELL OR RENT AIRGUNS TO ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS OR FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE SAME. IT IS ILLEGAL IF YOU ARE OVER EIGHTEEN YEARS OF AGE FOR YOU TO PURCHASE AN AIRGUN FOR A PERSON UNDER EIGHTEEN YEARS OF AGE UNLESS YOU ARE THE PARENT OR LEGAL GUARDIAN OF SUCH PERSON. FINES MAY BE IMPOSED FOR VIOLATION OF THESE PROVISIONS.

(b) Regulation of Dealers.

(1) Display of warning. Every dealer shall prominently display the required warning at all times in the place where airguns are sold or rented.

(2) Records to be maintained. Every dealer shall keep a record of each airgun sold, rented, exchanged or given away. Such record shall be made at the time of the transaction in a book kept for that purpose and shall include the name of the person to whom the airgun is sold, rented or given to or with whom exchanged; his or her age, occupation and residence address; the make, model and serial number of said airgun; the date of the transaction; and the name of the employee or agent of the dealer conducting the transaction for the dealer. Said record book shall be kept available at the place of business and shall be open to inspection by any duly authorized police officer at all times.

(c) Unlawful Acts.

(1) It shall be unlawful for any person to sell, rent, loan or give an airgun to a minor unless such person is the parent, legal guardian or authorized instructor of such minor.

(2) It shall be unlawful for any dealer to sell, lend, rent, give or otherwise transfer an airgun to a person whom the dealer knows or has reason to believe is a minor.

(3) It shall be unlawful for any minor to carry any airgun in any public place or in or upon any vehicle within the City unless said gun is unloaded and the minor is accompanied by a parent, legal guardian or authorized instructor.

(4) It shall be unlawful for any person to discharge an airgun except in any shooting gallery or on private property or within a building under circumstances where such airgun can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent any projectile from transversing any grounds or space outside the limits of such gallery, grounds or building.

(5) Unlawful acts pursuant to this Subsection (c) shall constitute Class 2 municipal offenses.

Sec. 11-1-703. Loitering by minors after curfew.

(a) Definitions. As used in this Section, *loitering* or *loiter* shall mean remaining idle in essentially one (1) location, to be dilatory, to tarry or to dawdle, and shall include but not be limited to standing around, hanging out, sitting, kneeling, sauntering or prowling. The term shall also include such activity by the driver or a passenger in a motor vehicle which is parked, standing or being driven upon any City street, alley or parking lot.

(b) It shall be unlawful and a Class 2 municipal offense for any person under the age of eighteen (18) years to loiter on or about any street, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground or yard, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours between 10:00 p.m. Sunday through Thursday and 6:00 a.m. the following day, and during the hours between 11:59 p.m. on Friday and Saturday and 6:00 a.m. the

following day, according to the applicable time standard then in effect for the City, unless accompanied by a parent, guardian or other adult person over the age of twenty-one (21) years.

(c) This Section shall not apply, and no person shall be charged with a violation of this Section or arrested therefor, if such person was:

(1) Not loitering;

(2) In a parked, standing or moving motor vehicle while accompanied by a parent, guardian or other adult person over the age of twenty-one (21) years;

(3) In a motor vehicle in interstate travel;

(4) Engaged in any employment, school, religious or athletic activity or going to or returning from any such activity or going to or from any other activities of any kind which are supervised or directed by a parent or adult person over the age of twenty-one (21) years;

(5) Exercising rights protected by the first amendment of the United States Constitution such as the free exercise of religion, freedom of speech or the right of assembly; or

(6) Married or an emancipated minor. (Ord. No. 5904, 9-26-94)

Sec. 11-1-704. Sale or exhibition of matter harmful to minors.

(a) Definitions. As used in this Section:

(1) *Hard core sexual conduct* means patently offensive acts, exhibitions, representations, depictions or descriptions of:

a. Intrusion, however slight, actual or simulated, by any object, any part of an animal's body or any part of a person's body into the genital or anal openings of any person's or animal's body; or

b. Cunnilingus, fellatio, analingus, masturbation, bestiality, lewd exhibition of genitals or excretory functions, actual or simulated.

(2) *Material* means any physical object, facsimile, recording, transcription, pictorial representation, motion picture or reproduction, whether mechanical, electrical or chemical, which is used as a means of communicating sensation or emotion to human beings to or through the visual, aural or tactile senses, but does not include the printed or written word.

(3) *Matter harmful to minors* means that material as defined in Subsection (2) of this Section which:

a. Taken as a whole, appeals to the prurient interest of the average person, applying contemporary state-wide standards;

b. Depicts or describes sadomasochistic conduct or hard-core sexual conduct; and

c. Taken as a whole, lacks serious literary, artistic, political or scientific value.

(4) *Person* means any individual, partnership, firm, association, corporation or other legal entity, or any agent or servant thereof.

(5) *Sadomasochistic conduct* means patently offensive acts, exhibitions, representations, depictions or descriptions of flagellation, mutilation or torture, actual or simulated, in a sexual context.

(6) A person acts knowingly with respect to conduct or to a circumstance described by an ordinance defining an offense when he or she is aware that his or her conduct is of such a nature or that such circumstance exists.

(7) *Minor* means a real person under the age of eighteen (18) years.

(8) *Visibly displayed* means that the material or performance is visible on a billboard, viewing screen, marquee, newsstand, display rack, window, show case, display case or other similar display area that is visible from any part of the premises where a juvenile is or may be allowed, permitted or invited as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school or other place to which a juvenile, as part of the general public or otherwise has unrestrained and reasonably anticipated access and presence.

(b) No person shall knowingly engage in the business of selling, lending, giving away, showing, advertising for sale or distributing to any minor, nor shall any person knowingly have in his or her possession with the intent to engage in said business or to otherwise offer for sale or commercial distribution to any minor, nor shall any person knowingly permit to be visibly displayed to minors any matters harmful to minors, as defined in this Section.

(c) It shall be an affirmative defense to a charge under this Section that such material or matter was so possessed, furnished or displayed to a minor for a bona fide medical, scientific, educational, governmental or judicial purpose by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, judge, prosecutor, parent or legal guardian.

(d) Violation of any provision of this Section shall be a Class 1 municipal offense.

Sec. 11-1-705. Carrying knives by minors.

(a) It shall be unlawful and a Class 2 municipal offense for any person under eighteen (18) years of age to carry any knife with a blade over two and one-half ($2^1/_2$) inches in length on or about his or her person, whether concealed or not.

(b) It shall be an affirmative defense to charges brought under this Section that the knife is or was carried by a person on his or her own property or in his or her own dwelling or for use in the course of a bona fide hunting or fishing trip.

Sec. 11-1-706. Reserved.

Sec. 11-1-707. Tattooing of minors.

It shall be unlawful and a Class 1 municipal offense 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. (Ord. 6002, 8-14-95)

Article VIII
Arrest

Sec. 11-1-801. General policy.

(a) The general policy relating to arrest shall favor issuances of a summons and complaint instead of the arrest of a person; therefore, all persons who may be lawfully charged with an offense constituting a violation of a municipal ordinance shall be issued a summons and complaint and released without bond upon executing a written promise to appear at the time and place indicated on the summons and complaint, except in the following cases:

(1) When a person refuses to give a written promise to appear in court as provided on the summons and complaint after being advised such refusal will result in the arrest of the person.

(2) When the person refuses to disclose his or her identity after being advised such refusal will result in the arrest of the person.

(3) When the officer has reasonable and probable grounds to believe that the person will disregard the notice or summons to appear. In determining the likelihood that the person will disregard the notice, the officer shall consider:

a. The person's length of residence in the City or the County;

bThe person's employment in the City or the County; and

c. The person's past history of response to legal process and past criminal history.

(4) When the officer has reasonable and probable grounds to believe that:

a. The person will continue in a breach of peace; or

b. The immediate safety of the person or other persons would be best served by arresting the person.

(b) The intentional disregard of the general policy relating to arrest set forth in this Section by any officer or employee of the City shall constitute grounds for disciplinary action. (Ord. No. 4949, 3-22-82)

Sec. 11-1-802. Enforcement.

As provided in Section 10-2 of the Charter, the Police Department shall enforce all ordinances of the City, including, without limitation, Chapter 1 of Title XI of this Code, except where the enforcement thereof has been specifically assigned by ordinance to another department or agency of the City or entity created by intergovernmental agreement. (Ord. No. 7374 §2, 9-26-05)

CHAPTER 2

Jails and Prisoners

Sec. 11-2-1. Definitions.

As used in this Chapter, the phrase:

(1) *Chief of Police* shall mean the Chief of Police of the City personally or his or her authorized designee for the care, custody or control of any or all persons subject to this Chapter.

(2) *City jail or lockup* shall mean that facility or facilities operated by the Chief of Police for the detention or confinement of municipal prisoners.

(3) *Work release or work release program* shall mean any formal or informal work program operated by the Chief of Police as an alternative to imprisonment in the City jail or lockup.

(4) *Community corrections facility* shall mean any community based program conducted by any unit of local government, the Department of Corrections, a private nonprofit agency or any corporation which provides residential accommodations and correctional programs for persons convicted of crimes and which has entered into a contract with the City to provide such services with respect to persons sentenced for municipal offenses. (1957 Code, §21-1; Ord. No. 4977, 6-28-82; Ord. No. 5645, 11-26-90)

Sec. 11-2-2. Sentencing alternatives.

Any person over the age of eighteen (18) years who is convicted of a violation of a City ordinance or Charter provision and sentenced to imprisonment shall be confined in the City jail or lockup or in the County jail, or may, in the discretion of the Municipal Judge, be sentenced to a community corrections facility or be granted work release for all or a portion of such sentence. All persons confined in the City jail or lockup or serving in a work release program shall at all times be under the care, custody and control of the Chief of Police or such other person as he or she may designate during the period of their confinement. All persons confined in the County jail shall at all times be under the care, custody and control of the Sheriff or his or her designee. All persons confined in or sentenced to a community corrections facility shall at all times be under the care, custody and control of the administrator of the facility and such other correctional personnel as he or she may designate during the period of their confinement. (1957 Code, §21-2; Ord. No. 4977, 6-28-82; Ord. No. 5645, 11-26-90)

Sec. 11-2-3. Prisoner work; reduction of sentence; work release.

(a) Any person sentenced to and confined in the City jail or lockup for violation of a municipal ordinance or Charter provision may be required to perform any reasonable labor by the Chief of Police for a period of eight (8) hours per day. Any person who so labors diligently and whose behavior is otherwise good may have his or her sentence reduced by the Chief of Police one (1) day for each day that he or she so conducts himself or herself, so that each two (2) days of his or her sentence may be served as one (1) day.

(b) Any person granted work release, in lieu of confinement, may be required to perform up to eight (8) hours labor per day for municipal or public benefit in the work release program. Each day spent performing labor in the work release program shall be credited against only one (1) day of such prisoner's work release sentence. During the periods of time during each day in which a work release participant is not required to labor or report for labor, such participant shall be granted his or her liberty, subject to such reasonable restrictions as the Chief of Police may deem necessary.

(c) Any person sentenced to a community corrections facility shall observe all rules and directives of the facility and perform all work and tasks assigned by the administrator of the facility and by other correctional personnel. (1957 Code, §21-3; Ord. No. 4977, 6-28-82; Ord. No. 5645, 11-26-90)

Sec. 11-2-4. Failure to pay fine; daily credit.

(a) Any person convicted of a municipal ordinance or Charter violation who receives a fine or penalty and who is able to pay the fine but shall fail or refuse to pay the same when demanded, shall be committed in default thereof to confinement in the City jail or lockup, County jail or community corrections facility, or may be granted work release until such penalty or fine is satisfied as set forth below.

(b) Any person so confined for failure to pay a fine shall be allowed forty dollars ($40.00) credit against his or her fine for each day so confined. Any person so confined, and any person who is granted work release, who diligently and satisfactorily performs such labor as is directed by the Municipal Judge and whose behavior is otherwise good may be allowed by the Municipal Judge a credit against his or her fine of twenty-five dollars ($25.00) for each day he or she so works and conducts himself or herself. Thus, a work release participant may satisfy his or her fine at the rate of twenty-five dollars ($25.00) per day, while a confined prisoner who labors may be allowed sixty-five dollars ($65.00) for each day in jail. (1957 Code, §21-4; Ord. No. 4036, 6-9-75; Ord. No. 4977, 6-28-82; Ord. No. 5645, 11-26-90; Ord. No. 6911 §1, 11-25-02)

Sec. 11-2-5. Obedience to orders.

(a) It shall be unlawful and a Class 1 municipal offense for any person confined or detained in the City jail or lockup to fail to obey all reasonable lawful orders and directions of the Chief of Police.

(b) It shall be unlawful and a Class 1 municipal offense for any person confined or sentenced to a community corrections facility to fail to obey all reasonable, lawful orders and directions of the

administrator of such facility or his or her authorized representatives. (1957 Code, §21-5; Ord. No. 4977, 6-28-82; Ord. No. 5645, 11-26-90)

Sec. 11-2-6. Introducing contraband.

It shall be unlawful and a Class 1 municipal offense for any person to introduce any spirituous or malt liquors or drugs, weapons or other contraband to any person confined in the City jail or lockup or in any community corrections facility, or to any person while the same is performing work release duties. Drugs or other medication prescribed by a physician must be controlled and administered by the person in charge of such place of confinement or work release labor. (1957 Code, §17-11; Ord. No. 4977, 6-28-82; Ord. No. 5645, 11-26-90)

Sec. 11-2-7. Resentencing of offenders sentenced to community corrections facilities.

If the administrator of a community corrections facility or the Chief of Police has cause to believe that an offender placed in a community corrections facility has violated any rule or condition of his or her placement in that facility, or cannot be safely housed in that facility, or for any other reason cannot remain at that facility, the administrator or Chief of Police shall certify that fact to the presiding Municipal Judge, who shall thereupon resentence the offender to jail or other facilities; provided, however, that in no case upon resentencing shall the length of confinement be increased beyond the length of the original sentence. Nothing in this Section is intended to nor should be construed to impair the Municipal Court's authority to sentence an offender upon conviction of any new or additional offenses committed by any offender while in the custody of a community corrections facility. (Ord. No. 5645, 11-26-90)

CHAPTER 3

Alcoholic Beverages

Article I
Alcoholic Beverages

Sec. 11-3-1. Exercise of police powers.

This Chapter shall be deemed an exercise of the police powers of the City for the protection of the economic and social welfare, and health and peace and morals of the people of this City, and shall further be deemed to be those other reasonable restrictions, terms and conditions which are placed upon licenses for the sale or dispensing of alcoholic beverages and 3.2% beer which may be granted by the Liquor and Beer Licensing Board as the Local Licensing Authority for the City as provided in Articles 46 and 47 of Title 12, C.R.S. (1957 Code, §4-18; Ord. No. 3656, 1-22-73)

Sec. 11-3-2. Definitions.

(a) For the purposes of this Chapter, all words shall receive the meaning placed upon them in Articles 46 and 47 of Title 12, C.R.S., as amended.

(b) In addition thereto, the following words shall have the meanings assigned thereto:

(1) *Local Licensing Authority* or *City Licensing Authority* shall mean the Liquor and Beer Licensing Board.

(2) *Licensee* shall mean any person licensed to sell or dispense malt, vinous or spirituous liquor or fermented malt beverage, or any agent or employee of such person.

(3) *Premises* shall include all or any part of the physical boundaries of any establishment duly licensed for the sale of beer or liquor under the provisions of this Chapter.

(4) *Board* shall mean the Liquor and Beer Licensing Board. (1957 Code, §4-9; Ord. No. 3656, 1-22-73)

Sec. 11-3-3. Licensing.

Malt, vinous and spirituous liquor and fermented malt beverages shall be sold only by the persons and parties licensed as provided by state law and this Code. (Ord. No. 3656, 1-22-73)

Article II
Liquor and Beer Licensing Board

Sec. 11-3-4. Licensing authority.

The Liquor and Beer Licensing Board shall be the local licensing authority in the City for the licensing of a location to sell beer and alcoholic liquors as authorized by Articles 46 and 47 of Title 12, C.R.S., as amended, and the rules and regulations of the State Licensing Authority, and shall possess all powers given to local licensing authorities by the provisions of said statute and rules and regulations. (Ord. No. 3656, 1-22-73)

Sec. 11-3-5. Members.

(a) The Liquor and Beer Licensing Board shall consist of five (5) members to be appointed by the City Council by resolution. Four (4) members shall be initially appointed for staggered terms expiring on the first day of August as follows: one (1) member for a one-year term, one (1) member for a two-year term, one (1) member for a three-year term, and two (2) members for four-year terms, or in lieu of one (1) member for a four-year term, a member of the City Council may be appointed for an indefinite term. Thereafter, each member shall be appointed for a term of four (4) years. At the Board's first regular meeting in August 1978 and in August each year thereafter, the Board shall appoint one (1) of its members to act as Chairman of the Board. The City Council shall make an appointment for any unexpired term in the event a vacancy arises.

(b) Any member of the Board may be removed by the City Council for nonattendance to duty or for cause. Any member who fails to attend three (3) consecutive meetings of the Board shall be removed from the Board, unless the City Council excuses any such absences. (Ord. No. 3656, 1-22-73; Ord. No. 3986, 2-24-75; Ord. No. 4514, 8-14-78; Ord. No. 7830 §1, 7-14-08)

Sec. 11-3-6. Board to prescribe terms, conditions or provisions.

The Liquor and Beer Licensing Board may prescribe terms, conditions or provisions as it may deem necessary to carry out its exercise of police powers, provided that these terms, conditions or

provisions do not conflict with the laws of the State or rules and regulations provided by the State Licensing Authority or ordinances and resolutions of the City. (Ord. No. 3656, 1-22-73)

Sec. 11-3-7. Granting or denial of license.

(a) Before entering any decision approving or denying an application, the Liquor and Beer Licensing Board shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the number, type and availability of liquor outlets located in or near the neighborhood under consideration and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed; provided that the reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license.

(b) All hearings of the Liquor and Beer Licensing Board shall be conducted pursuant to and in accordance with the provisions of Articles 46 and 47 of Title 12, C.R.S., and Section 1-7-7 of this Code, and if such provisions are in conflict, the statute's provision shall prevail.

(c) Any decision of the Liquor and Beer Licensing Board approving or denying an application shall be in writing stating the reasons therefor and made within thirty (30) days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address as shown in the application.

(d) No license shall be issued by the Liquor and Beer Licensing Board after approval of an application until the building in which the business is to be conducted is ready for occupancy, with such furniture, fixtures and equipment in place as is necessary to comply with the provisions of this Article, and then only after inspection of the premises has been made to determine that the applicant has complied with the architect's drawing and plans and specifications submitted with the application.

(e) After approval of any application, the Liquor and Beer Licensing Board shall notify the state licensing authority of such approval. (Ord. No. 3656, 1-22-73)

Sec. 11-3-8. Suspension and revocation of license.

(a) The Liquor and Beer Licensing Board shall have the power to suspend or revoke any license issued by the Board on its own motion or on complaint for any violation by the licensee or by any of the agents, servants or employees of such licensee of the provisions of the Colorado Liquor Code, the Colorado Beer Code or any of the rules and regulations authorized pursuant to such codes, or any of the terms, conditions or provisions of the license issued by the Board, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard.

(b) The Board shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which it is authorized to conduct.

(c) Notice of suspension or revocation, as well as any required notice of such hearing, shall be given by mailing same in writing to the licensee at the address contained in such license. No such suspension shall be for a longer period than six (6) months.

(d) Any license may be summarily suspended by the Board without notice pending any prosecution, investigation or public hearing. Nothing in this Section shall prevent the summary suspension of such license for a temporary period of not more than fifteen (15) days.

(e) If any license is suspended or revoked, no part of the fees paid therefor shall be returned to the licensee.

(f) The Board shall have the power to implement the optional procedures set forth in Subsections (3) to (6) of Section 12-47-601 of the Colorado Liquor Code, which the City Council hereby accepts and adopts. (Ord. No. 3656, 1-22-73; Ord. No. 6415, §1, 3-22-99)

Sec. 11-3-9. Appeal of Board decisions.

Actions taken by the Board are subject to review by the Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Review must be applied for within thirty (30) days after the date of decision. Any person applying to the Court for review shall be required to pay the cost of preparing a transcript of proceedings before the Board whenever such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Board pursuant to the Court order. (Ord. No. 3656, 1-22-73)

Sec. 11-3-10. Quorum and majority vote.

A majority of the Liquor and Beer Licensing Board shall constitute a quorum for the conduct of its business. All decisions of the Liquor and Beer Licensing Board shall be by majority vote of the entire Board. (Ord. No. 3656, 1-22-73)

Sec. 11-3-11. License applications.

All applications for licenses and fees shall be filed with the City Clerk, on forms to be approved by the City Clerk, together with such other information and documents as may be required by the rules of the Liquor and Beer Licensing Board. The City Clerk shall act as Secretary to the Liquor and Beer Licensing Board. (Ord. No. 3656, 1-22-73)

Sec. 11-3-12. Distance from schools or colleges.

(a) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 12-47-313(1)(d)(I), C.R.S., is hereby reduced to two hundred (200) feet, provided that this distance reduction shall apply only to bona fide hotel and restaurant businesses, which maintain at least five (5) sleeping rooms for the accommodation of guests and have meals available for consumption at all times when the facility is open to the public.

(b) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 12-47-313(1)(d)(I), C.R.S., is hereby reduced to three hundred (300) feet, provided that this distance reduction shall apply only to bona fide hotel and restaurant businesses located within the downtown business district bounded by the center line of Interstate Highway 25 on the east, the center line of Elizabeth Street on the south and west and the center line of Thirteenth Street on the north.

(c) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 12-47-313(1)(d)(I), C.R.S., is hereby eliminated for a Hotel and Restaurant Class Liquor License to serve the Occhiato University Center located upon the Pueblo Campus of Colorado State University, 2200 Bonforte Boulevard, Pueblo, CO 81001.

(d) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the five-hundred-foot distance limitation contained in Section 12-47-313(1)(d)(I), C.R.S., is herby eliminated for a Tavern Class Liquor License to serve the College Center Building including curtilage up to one hundred (100) feet from said building located upon the campus of Pueblo Community College, 900 W. Orman Avenue, Pueblo, CO 81004.

(e) Any license granted under the provisions of this Section shall also be subject to all other applicable provisions of state and local law.

(f) The grant or denial of any application under this Section shall remain within the authority and discretion of the Liquor and Beer Licensing Board. (Ord. No. 5661, 2-11-91; Ord. No. 5920, 11-14-94; Ord. No. 7688, 11-26-07; Ord. No. 7831 §1, 7-14-08; Ord. No. 7824 §1, 6-9-2008)

Sec. 11-3-13. Optional premises licenses.

(a) The Board may accept applications either for an optional premises license or for a hotel and restaurant license with optional premises.

(b) The specific types of outdoor sports and recreational facilities which may be licensed hereunder shall be limited to golf courses, and such other facilities as may be designated by ordinance.

(c) No alcoholic beverages may be served on the optional premises unless the licensee has provided to the state and local licensing authorities at least forty-eight (48) hours' prior written notice of the specific days and hours on which the optional premises are to be so used.

(d) In addition to the requirements of Sections 11-3-13 through 11-3-15 herein, optional premises applications, licenses and licensees shall be subject to all other applicable requirements of the Colorado Liquor Code and City ordinances. (Ord. No. 5825, 8-23-93)

Sec. 11-3-14. Applications.

Each application for an optional premises license or for a hotel and restaurant license with optional premises shall include the following:

(1) All license and application fees required by the Colorado Liquor Code and City ordinances;

(2) A detailed scale drawing or diagram of the entire outdoor sports or recreation facility on which the optional premises are to be located, showing all significant architectural or topographical features of the facility and including the location and description of each of the following:

a. Secured areas for storage of alcohol;

b. Optional premises to be licensed;

c. Bars or serving areas within each optional premises;

d. Movable carts or vehicles for the service of alcohol, if any;

e. Seating facilities;

f. Rest room facilities;

g. Controls on access to optional premises;

(3) Evidence that the optional premises will be operated in compliance with all other requirements of state and local law;

(4) All information required by the state or local licensing authority for liquor license applications; and

(5) Any other information reasonably required by the local licensing authority or state licensing authority. (Ord. No. 5825, 8-23-93)

Sec. 11-3-15. Hearing required.

(a) The Board shall hold a public hearing on each application for an optional premises license or for a hotel and restaurant license with optional premises.

(b) In addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code, the applicant shall have the burden of justification of the following requirements for issuance of an optional premises license:

(1) Need and desirability of the optional premises requested;

(2) Need and desirability of the number and size of service areas or facilities requested;

(3) Adequate security and control over the optional premises by the licensee;

(4) That the health, safety and welfare of the inhabitants of the neighborhood and the users of the outdoor sports and recreation facility will not be adversely affected by issuance of such license.

(5) That the state licensing authority has approved the location proposed for optional premises as required by the Colorado Liquor Code. (Ord. No. 5825, 8-23-93)

Secs. 11-3-16—11-3-20. Reserved.

Article III
Municipal Offenses

Sec. 11-3-21. Disorderly conduct; permitting.

It shall be unlawful for any licensee to permit any disturbance or unlawful or disorderly act or conduct to be committed by any person or group of persons upon his or her premises. (1957 Code, §4-10; Ord. No. 3656, 1-22-73)

Sec. 11-3-22. Participation; exceptions.

It shall be unlawful for a licensee, in any manner, to encourage or participate in any disturbance or unlawful or disorderly act or conduct upon his or her premises; provided, however, that such licensee may use such lawful means as may be proper to protect his or her person or property from damage or injury. (1957 Code, §4-11; Ord. No. 3656, 1-22-73)

Sec. 11-3-23. Report to police.

A. licensee shall immediately report to the Police Department any unlawful or disorderly act or conduct or any disturbance committed on his or her premises. (1957 Code, §4-12; Ord. No. 3656, 1-22-73)

Sec. 11-3-24. Absence no defense.

It shall not be a defense that the licensee was not personally present on his or her premises at the time such unlawful or disorderly act, conduct or disturbance took place. However, an agent, servant or employee of the licensee shall not be liable hereunder when absent from the premises while not on duty. (1957 Code, §4-14; Ord. No. 3656, 1-22-73)

Sec. 11-3-25. Securing credit by pledge.

It shall be unlawful for any licensee in the City engaged in the sale and dispensation of malt, vinous or spirituous liquors, or fermented malt beverages, to, in any manner, accept any personal property as a pledge, pawn or loan for any sum of money advanced by such licensee or for any credit extended by such licensee. (1957 Code, §4-15; Ord. No. 3656, 1-22-73)

Sec. 11-3-26. Penalty.

Any licensee violating any of the provisions of Sections 11-3-21 to 11-3-25, inclusive, of this Article shall, upon conviction thereof, be fined in a sum not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000.00), or shall be imprisoned in the City jail for a period of not less than ten (10) days nor more than one (1) year, or shall be both so fined and imprisoned. (1957 Code, §4-17; Ord. No. 3656, 1-22-73; Ord. No. 7937 §21, 12-8-08)

Sec. 11-3-27. Weapons prohibited in premises.

(a) It shall be unlawful and a municipal offense for any person to carry on or about his or her person a weapon in or upon any premises licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquors.

(b) It shall be unlawful and a municipal offense for any licensee to knowingly permit any person, other than a policeman or other certified peace officer, to carry a weapon on or about his or her person while in or upon a licensed premises.

(c) It shall be an affirmative defense to a charge of violating this Section that the person carrying the weapon was:

(1) A person in his or her own place of business or on property owned or under his or her control at the time of the act of carrying the weapon; or

(2) A person who was a policeman or other certified peace officer at the time of the act of carrying the weapon.

(d) As used in this Section, *weapon* shall have the same meaning as that term is defined in Section 11-1-601(a)(4) of this Code but shall in addition specifically include:

(1) A battery-powered flashlight containing more than two (2) "D"-size batteries or which is more than eight (8) inches in length; and

(2) Any club or baton longer than eight (8) inches in length, provided, however, that this Paragraph (2) is not intended to cover any pool or billiards stick. (Ord. No. 4473, 4-24-78; Ord. No. 6735, 9-24-01; Ord. No. 7020 §2, 7-28-03)

Secs. 11-3-28—11-3-40. Reserved.

Article IV
Special Event Permits

Sec. 11-3-41. Liquor and Beer Licensing Board; local authority.

The Liquor and Beer Licensing Board as local authority may issue a special event permit for the sale, by the drink only, of fermented malt beverages, as defined in Section 12-46-103, C.R.S., as amended, or the sale, by the drink only, of malt, spirituous or vinous liquors, as defined in Section 12-47-103, C.R.S., as amended, to organizations and political candidates qualifying under Article 48 of Title 12, C.R.S., as amended, subject to the provisions of Articles 46 and 47 of Title 12, C.R.S., as amended, and to the limitations imposed by Article 48 of Title 12, C.R.S., as amended. (Ord. No. 3460, 7-1-71; Ord. No. 3656, 1-22-73; Ord. No. 8368 §1, 7-11-11)

Sec. 11-3-42. Organizations who qualify.

A special event permit issued under this Article may be issued only to an organization, whether or not presently licensed under Articles 46 and 47 of Title 12, C.R.S., as amended, which has been incorporated under the laws of this State for purposes of a social, fraternal, patriotic, political or athletic nature, and not for pecuniary gain, or which is a regularly chartered branch, lodge or chapter of a national organization or society organized for such purposes and being nonprofit in nature, or which is a regularly established religious or philanthropic institution, and to any political candidate who has filed the necessary reports and statements with the Secretary of State pursuant to Article 45 of Title 1, C.R.S., as amended. (Ord. No. 3460, 7-1-71; Ord. No. 8368 §1, 7-11-11)

Sec. 11-3-43. Fees.

(a) The fee for investigation and issuance of a special event permit is one hundred dollars ($100) per permit.

(b) All such fees are payable at the time application for a special event permit is made. The Liquor and Beer Licensing Board as local authority may require any applicant to post a performance bond to assure compliance with the provisions of this Article. (Ord. No. 3460, 7-1-71; Ord. No. 3656, 1-22-73; Ord. No. 5192, 12-10-84; Ord. No. 7722 §1, 1-28-08; Ord. No. 8368 §1, 7-11-11)

Sec. 11-3-44. Issuance of permit; limitation.

A special event permit may not be issued to any organization for more than fifteen (15) days in one (1) calendar year. The City Clerk shall access information made available on the website of the State licensing authority to determine the statewide permitting activity of any applicant and shall assure compliance with the limitation imposed by this Section. (Ord. No. 3460, 7-1-71; Ord. No. 3656, 1-22-73; Ord. No. 8368 §1, 7-11-11)

Sec. 11-3-45. Denial of permit.

The Liquor and Beer Licensing Board as local authority may deny the issuance of a special event permit upon the grounds that such issuance would be injurious to the public welfare because of the nature of the special event, its location within the community or the failure of the applicant in a past special event to conduct the event in compliance with applicable laws. (Ord. No. 3460, 7-1-71; Ord. No. 3656, 1-22-73; Ord. No. 8368 §1, 7-11-11)

Sec. 11-3-46. Forms.

Applications for a special event permit shall be made on forms provided by the State licensing authority, and shall be verified by oath or affirmation of an officer of the organization or of the political candidate making application. Upon approval of any application by the Liquor and Beer Licensing Board, the permit shall issue and the approval of the State licensing authority shall not be required. The City Clerk shall report to the State liquor enforcement division, within ten (10) days after the issuance of a permit, the name of the organization to which a permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service. (Ord. No. 3460, 7-1-71; Ord. No. 8368 §1, 7-11-11)

Article V
Massage Parlors

Sec. 11-3-50. Licensing authority.

The Liquor and Beer Licensing Board shall be the local licensing authority in the City for the licensing of massage parlors as authorized by the Colorado Massage Parlor Code and shall possess all powers given to local licensing authorities by the provisions of said code. (Ord. No. 4412, 1-23-78)

Editor's Note: Ord. No. 3656 was passed and approved by the City Council on 1-22-73 and becomes effective 3-1-73.

Sec. 11-3-51. Applications.

All applications and fees for massage parlors shall be filed with the City Clerk together with such other information and documents as may be required by the Liquor and Beer Licensing Board. (Ord. No. 4412, 1-23-78)

Sec. 11-3-52. Hearings.

All proceedings and hearings of the Liquor and Beer Licensing Board relating to massage parlors shall be conducted to and in accordance with the Colorado Massage Parlor Code and Section 1-7-7 of this Code; and if such provisions are in conflict, the Colorado Massage Parlor Code shall control. No massage parlor license shall be granted unless approved by a majority of the entire Board. (Ord. No. 4412, 1-23-78)

Secs. 11-3-53—11-3-60. Reserved.

Article VI
Alcohol Beverage Tastings

Sec. 11-3-61. Authority.

A retail liquor store or liquor-licensed drugstore licensee may conduct alcohol beverage tastings within the City only following approval of an application for an alcohol beverage tastings permit by the Liquor and Beer Licensing Board and subject to the limitations set forth in this Article and Section 12-47-301(10), C.R.S. (Ord. No. 7911 §1, 11-10-08)

Sec. 11-3-62. Application.

(a) A retail liquor store or liquor-licensed drugstore licensee desiring to conduct alcohol beverage tastings must submit a permit application or permit application renewal for that purpose in accordance with this Article.

(b) An alcohol beverage tastings permit shall be valid for the period of the then-existing liquor license, and the permit may be renewed at the time of any liquor license renewal.

(c) An application for alcohol beverage tastings permit must be submitted to the Liquor and Beer Licensing Board no later than thirty (30) days prior to the date of the first alcohol beverage tasting requested in the application or at the time of license renewal, whichever occurs first.

(d) At a minimum, the application must include the following information:

(1) The name of the licensee and location of the premises of the retail liquor store or liquor-licensed drugstore;

(2) Schedule of the specific dates and times of requested alcohol beverage tastings for the period of the permit. Following approval of a tastings permit and the tastings schedule by the Liquor and Beer Licensing Board, the licensee may amend such schedule by delivering to the Liquor and Beer Licensing Board, at least fourteen (14) days prior to an unscheduled event, a notice of amendment of the approved schedule;

(3) A copy of a certificate of training for individuals who will conduct beverage tastings; and

(4) Any other information requested by the Liquor and Beer Licensing Board reasonably necessary to ensure compliance with the requirements of this Article and Section 12-47-301(10), C.R.S. (Ord. No. 7911 §1, 11-10-08)

Sec. 11-3-63. Decision on application.

(a) The Liquor and Beer Licensing Board may deny an application for issuance of an alcohol beverage tastings permit upon the following grounds:

(1) The applicant has failed to establish that the applicant is able to conduct alcohol beverage tastings in compliance with this Article or Section 12-47-301(10), C.R.S.;

(2) The alcohol beverage tastings requested by applicant create or threaten to create a public safety risk to the neighborhood; or

(3) The Licensee has violated the Colorado Liquor Code or any rules and regulations authorized pursuant to such code during the one (1) year immediately preceding the date of the application.

(b) If an application for an alcohol beverage tastings permit is denied, the Liquor and Beer Licensing Board shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the Liquor and Beer Licensing Board within fifteen (15) days after the date of notice. (Ord. No. 7911 §1, 11-10-08)

Sec. 11-3-64. Operation.

Alcohol beverage tastings shall be conducted in compliance with and subject to the conditions and requirements set forth in this Article and Section 12-47-301(10), C.R.S. (Ord. No. 7911 §1, 11-10-08)

CHAPTER 4

Animals

Article I
Animal Control

Sec. 11-4-1. Definitions.

As used in this Chapter, the term:

(1) *Owner* shall mean any person who owns, keeps or harbors any animal or any person who permits or suffers any animal to remain on or about his or her premises for a period of thirty (30) days.

(2) *Animal* shall mean all warm-blooded domesticated mammals including both male or female, whether sterilized or not sterilized.

(3) *Vicious animal* shall mean any animal that without provocation bites or attacks a human being or another animal, either on public or private property, or any animal that, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or public grounds or places.

(4) *At large* shall mean off the premises of its owner or person having charge thereof, and not under the direct physical control of the owner or other responsible person by either leash, cord or chain. An animal within the automobile or an enclosed portion of any other motor vehicle of its owner or other authorized person shall not be deemed to be at large. An animal which is not restrained or tethered and is left unattended in an unenclosed portion of a motor vehicle shall be deemed to be at large.

(5) *Harboring* or *keeping* shall mean the act of keeping or caring for an animal or the act of providing a premises to which an animal returns for food, shelter or care for a period of three (3) days or more.

(6) *Vaccination* shall mean the inoculation of an animal with a vaccine approved by the Colorado Department of Health for use in prevention of rabies.

(7) *Person* shall mean any individual, firm, corporation, limited liability company, partnership or association. All members of one (1) household shall be considered as one *person* for the purposes of this Chapter.

(8) *License officer* shall mean the Shelter Operator or, if none, the Director of Finance or his or her designee.

(9) *Manure* shall mean the excrement of any domestic animal or fowl and all stable bedding.

(10) *Lot* or *parcel of land* shall mean any area of land in the City under one (1) ownership as shown on the last assessor's roll of the County, or any area of land under legal control of any person.

(11) *Improved lot* shall mean any lot or parcel of land on which is located a dwelling house, occupied or unoccupied.

(12) *Property line* shall mean the boundary of any lot or parcel of land as the same is described in the conveyance to the owner of such lot or parcel, and shall not include the street or any portion thereof upon which said lot or parcel may abut; provided, however, that for purposes of this Chapter, the property line of a lot or parcel abutting on an alley shall be deemed to extend to the centerline of such alley.

(13) *Fence* shall mean an enclosing structure of any construction with sufficient strength, durability and dimensions to prevent an animal from straying from within.

(14) *Wild animal* shall mean any species of animal which exists in a natural unconfined state and is not commonly domesticated or suitable for domestication. The term specifically includes, without limitation, all species of poisonous reptiles, lizards belonging to the family *Varanidae* and crocodilians.

(15) *Domesticated pot-bellied pig* shall mean a domesticated porcine animal of the species *Sus scrofa bittatus* which meets both of the following criteria: (i) the animal shall not exceed one hundred (100) pounds in weight, and (ii) if over four (4) months of age, the animal shall be spayed or neutered.

(16) *Neglect* or *neglecting* 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.

(17) *Mistreatment* means neglect and every other act or omission which creates a substantial probability of causing injury to or unnecessary suffering by an animal.

(18) *Abandon* or *abandoning* shall mean the leaving of an animal by a person having possession or custody of the animal under circumstances where the animal will not likely be provided with adequate food, water or protection from the elements.

(19) *Shelter Operator* shall mean the Animal Control Division of the Police Department, except that if the City has entered into a management agreement with a nonprofit corporation which assigns and delegates to such entity the authority and responsibility to enforce this Chapter and to manage and operate the Animal Shelter and the administration of the vaccination and licensing system provisions of this Chapter, the term shall instead mean such entity. (Ord. No. 4860, 4-13-81; Ord. No. 5912, 11-14-94; Ord. No. 6056, 2-12-96; Ord. No. 6600, 10-10-00; Ord. No. 7806 §1, 5-27-08; Ord. No. 8623 §1, 8-26-13)

Sec. 11-4-2. Vaccinations.

(a) Every owner of a dog four (4) months old or older shall have such dog vaccinated by a licensed veterinarian. If a dog four (4) months old or older, whose owner is a nonresident, shall remain within the City for more than thirty (30) days, it shall be vaccinated in accordance with the provisions of this Chapter.

(b) Every owner of a cat four (4) months old or older shall have such cat vaccinated against rabies by a licensed veterinarian. If a cat four (4) months old or older, whose owner is a nonresident, shall remain within the City for more than thirty (30) days, it shall be vaccinated in accordance with the provisions of this Chapter.

(c) A veterinarian, with the written consent of an animal's owner, may issue a written exemption waiving the requirement that an animal be vaccinated from rabies if the veterinarian, in his or her professional opinion, determines that the rabies vaccination is contraindicated due to the animal's health.

(d) A valid veterinary-client-patient relationship, as defined under Section 12-64-103(15.5), C.R.S., must have been established between the veterinarian, owner and animal in order for a veterinarian to issue a written exemption.

(e) It shall be unlawful and a Class 2 municipal offense for any dog or cat owner required by this Section to have his or her animal vaccinated to fail to have said animal so vaccinated or obtain a written exemption from vaccination. (Ord. No. 4860, 4-13-81; Ord. No. 5537, 4-24-89; Ord. No. 5773, 9-28-92; Ord. No. 5912, 11-14-94; Ord. No. 6600, 10-10-00; Ord. No. 7274 §1, 2-14-05; Ord. No. 8309 §1, 2-14-11)

Sec. 11-4-3. Certificate of vaccination; exemption from rabies vaccination.

(a) Upon vaccination, the veterinarian administering the vaccine shall execute in triplicate a signed vaccination certificate upon forms approved by the Shelter Operator and License Officer. The certificate shall contain the following information:

(1) The name, address and telephone number of the owner of the vaccinated dog or cat;

(2) The date of vaccination;

(3) The breed, age, color and sex of the vaccinated dog or cat;

(4) The expiration date of vaccination;

(5) A statement indicating whether the animal has been surgically sterilized;

(6) The number of the vaccination tag issued.

(b) The veterinarian shall deliver a copy of the certificate to the owner, retain the original for his or her files and send a copy to the Shelter Operator. It shall be unlawful and a municipal offense for any owner of any dog or cat to fail or refuse to exhibit his or her copy of the vaccination certificate upon demand to any person charged with enforcement of this Chapter.

(c) If the veterinarian determines that an exemption to the requirement for rabies vaccination is appropriate, the veterinarian shall complete and sign the veterinary section of the Exemption from Rabies Vaccination Form available for download from the Colorado Department of Public Health and Environment or on file at the office of the City Clerk. The animal owner shall sign the informed consent section of the Exemption from Rabies Vaccination Form.

(d) The veterinarian shall keep a copy of each signed Exemption from Rabies Form in the animal's medical record and provide a copy to the animal's owner. The veterinarian shall send a copy of the Exemption from Rabies Vaccination Form to the Shelter Operator. It shall be unlawful and a municipal offense for any owner of any dog or cat to fail or refuse to exhibit his or her copy of the Exemption from Rabies Vaccination Form upon demand to any person charged with enforcement of this Chapter.

(e) Any exemption issued pursuant to this Section may not exceed a period of three (3) years from the date of issuance. If the medical condition exists beyond a three-year period, and in the professional opinion of a veterinarian licensed in the State of Colorado the exemption continues to be appropriate, a new waiver may be issued.

(f) A veterinarian supplying a waiver exempting an animal from a rabies vaccination, the veterinarian's assistants and employees, the City, and any person enforcing Section 11-4-2 shall not be liable for any subsequent accident, disease, injury or quarantine that may occur as a result of an animal exempted from a rabies vaccination. (Ord. No. 5537, 4-24-89; Ord. No. 5912, 11-14-94; Ord. No. 6600, 10-10-00; Ord. No. 6902 §1, 11-11-02; Ord. No. 8309 §2, 2-14-11)

Sec. 11-4-4. Vaccination tags.

(a) Upon vaccination of any dog or cat, the vaccinating veterinarian shall issue to the owner of each vaccinated dog or cat a vaccination tag. Such tags shall be serially numbered, and the number of the tag shall be noted on the vaccination certificate.

(b) Every owner of a dog four (4) months old or older shall securely cause the vaccination tag to be attached to a collar, harness or other device worn by the vaccinated dog, and shall thereafter maintain the vaccination tag upon such dog. It shall be unlawful and a municipal offense for the owner of any dog four (4) months old or older to permit or tolerate his or her dog not to wear a vaccination tag.

(c) It shall not be required of the owner of any cat to affix the vaccination tag to the vaccinated cat; provided that the owner exhibit a certificate of vaccination as provided in Section 11-4-3 of this Chapter. (Ord. No. 5537, 4-24-89; Ord. No. 5773, 9-28-92; Ord. No. 6600, 10-10-00; Ord. No. 6902 §1, 11-11-02)

Sec. 11-4-5. Lost tags; reissuance.

In the event of a loss of a dog vaccination tag, the owner shall return to the vaccinating veterinarian and, upon application for a replacement tag and payment of a reissuance fee, obtain a new vaccination tag and vaccination certificate. In the event of a loss of a cat vaccination tag, the owner may, but is not required, to obtain a new vaccination tag from the vaccinating veterinarian upon application and payment of a reissuance fee. Any such reissued tag and certificate shall be valid

only for the unexpired remainder of the lost tag's term. The vaccination certificate issued hereunder shall state "Reissued" upon the face but shall otherwise conform to the requirements of this Chapter. (Ord. No. 5537, 4-24-89; Ord. No. 6600, 10-10-00; Ord. No. 6902 §1, 11-11-02)

Editor's Note: Section 11-4-6 was repealed in its entirety by Ord. No. 6902, passed and approved 11-11-02.

Sec. 11-4-7. Restrictions on use of vaccination tags and certificates.

(a) Only the vaccination certificates approved by the Shelter Operator and License Officer may be issued through veterinarians. Possession or use of any other form or facsimile of certificate, or of any altered, counterfeit or forged certificate, shall be unlawful and a municipal offense.

(b) Vaccination certificates may only be used for, and vaccination tags worn by, the animal for which the tag and certificate were issued. It shall be unlawful and a municipal offense for any person: (1) to use or attempt to use any certificate as proof of vaccination of any animal other than the one for which it was issued; (2) to affix a vaccination tag to any animal other than the one for whom it was issued; or (3) as owner, to permit or tolerate his or her animal to wear any vaccination tag other than the one validly issued for that animal. (Ord. No. 5537, 4-24-89; Ord. No. 6600, 10-10-00; Ord. No. 6902 §1, 11-11-02)

Sec. 11-4-8. Impoundment of stray cats.

In addition to the authority granted to Animal Control Officers elsewhere in this Chapter, any Animal Control Officer shall have authority to trap or apprehend, and to impound, any cat found at large or off of its owner's property if the Animal Control Officer has cause to believe that one (1) or more cats in an area are presenting, or may contribute to creation or existence of, a public nuisance. (Ord. No. 5537, 4-24-89; Ord. No. 6600, 10-10-00)

Sec. 11-4-9. Kennel and cattery licenses.

(a) As used in this Section, the term:

(1) *Dog* shall include both mature and immature dogs, except that the term shall not include puppies which have not yet been weaned from their bitch.

(2) *Cat* shall include both mature and immature cats, except that the term shall not include kittens which have not yet been weaned from their queen nor shall the term include kittens less than twelve (12) weeks of age.

(b) It is hereby declared to be a nuisance and it shall be unlawful and a municipal offense for any person to have more than four (4) dogs on a premises at any one time without having a kennel license. It is also hereby declared to be a nuisance and it shall be unlawful and a municipal offense for any person to have more than four (4) cats on a premises at any one time, except upon land zoned agricultural, or for any person to operate a shelter for cats, without having obtained a cattery license; provided however, that this paragraph shall not apply to a registered Feral Cat Colony Manager in compliance with the provisions of Article V of this Chapter.

(c) Application for a kennel or cattery license shall be submitted to the City-County Health Department, together with a petition signed by not less than seventy-five percent (75%) of the residents living within three hundred (300) feet of the premises proposed to be licensed. At the time of submission of the application, a nonrefundable fee in the amount of one hundred dollars ($100.00) shall be paid. The Health Department shall thereafter conduct a hearing, upon not less than fifteen (15) days' public notice posted upon the premises and published in a newspaper of general circulation. The Health Department shall grant the license only upon finding each of the following:

(1) That the applicant has demonstrated it will operate the kennel or cattery in compliance with all applicable laws, including having any required state licensure and the requirements of this Chapter;

(2) That the operation of a kennel or cattery on the premises will not result in undue disturbance of the neighborhood or a public nuisance; and

(3) That the operation of a kennel or cattery on the premises would be compatible with existing uses of property in the neighborhood.

(d) An animal kennel or cattery license renewal fee of thirty-five dollars ($35.00) shall be due and payable to the License Officer on the first day of January of each year.

(e) This Section shall have no application to the Pueblo Animal Shelter provided under Section 11-4-17 of this Chapter. (Ord. No. 4860, 4-13-81; Ord. No. 5537, 4-24-89; Ord. No. 6600, 10-10-00; Ord. No. 8356 §1, 6-13-11)

Sec. 11-4-10. Animal Control Officers; powers, superior.

(a) All Animal Control Officers employed by the City are hereby designated and appointed Animal Control Officers and peace officers authorized and vested with the power to enforce the provisions of this Chapter. Such Animal Control Officers shall act under the direction and supervision of the Chief of Police or his or her designee and shall be responsible to him or her for the carrying out of their duties as Animal Control Officers.

(b) If the City contracts with an entity to enforce this Chapter, the Chief of Police may appoint employees of such contracting entity, after appropriate training, as Animal Control Officers vested with the authority to enforce this Chapter, investigate violations of this Chapter, issue and serve summonses and complaints enforcing this Chapter and impound animals as provided in this Chapter. The appointed Animal Control Officers shall not have the power of arrest or be authorized to carry weapons. Individuals appointed Animal Control Officers may be known as Animal Welfare Officers and shall, pursuant to Section 30-15-105, C.R.S., be included within the definition of "peace officer or firefighter engaged in the performance of his or her duties" in Section 18-3-201(2), C.R.S. Animal Control Officers who are employees of the contracting entity and appointed pursuant to this Subsection shall not be under the direction and supervision of the Chief of Polices and shall not be responsible to the Chief of Police for the carrying out of their duties as Animal Control Officers. (Ord. No. 5723, 12-23-91; Ord. No. 6600, 10-10-00; Ord. No. 6722, 8-27-01; Ord. No. 6850 §1, 6-24-02)

Sec. 11-4-11. Animal Control Officers, equipment.

Animal Control Officers shall be furnished with a truck and such other necessary equipment, including humane dog and cat traps, restraining sticks, cages, leashes, ropes, collars, flashlights, blankets and protective equipment. (Ord. No. 6600, 10-10-00)

Sec. 11-4-12. Duty to report animal bites.

Any person having knowledge of an animal bite shall immediately report the incident to the City-County Health Department, Shelter Operator, Police Department or the Sheriff. (Ord. No. 6600, 10-10-00; Ord. No. 6902 §1, 11-11-02)

Sec. 11-4-13. Quarantine of animals.

(a) Any animal which has bitten a person shall be confined and observed for a period of not less than ten (10) days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer. If the animal is not confined on the owner's premises, confinement shall be in the Pueblo Animal Shelter or at any veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner. Stray animals whose owners cannot be located shall be confined in the Pueblo Animal Shelter. The owner of any animal that has been reported as having inflicted a bite on any person shall, on demand, produce said animal for quarantine as prescribed in this Section. Refusal to produce such animal constitutes a violation of this Section and a municipal offense, and each day of such refusal shall constitute a separate and individual violation.

(b) It shall be unlawful and a municipal offense for any person to remove from any place of isolation or quarantine any animal which has been isolated or quarantined as authorized, without consent of the impounding agency. (Ord. No. 4860, 4-13-81; Ord. No. 6600, 10-10-00)

Sec. 11-4-14. Vicious animals.

(a) Definitions. As used in this Section, the following words have the following meanings:

(1) *Bodily injury* means any physical injury that results in severe bruising, muscle tear or skin laceration or any physical injury that requires corrective or cosmetic surgery.

(2) *Vicious animal* means any animal that:

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

b. Has demonstrated tendencies that would cause a reasonable person to believe that the animal may inflict bodily 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.

(b) Violation, ownership of vicious animal. It shall be unlawful and a Class I municipal offense for any person to own, possess, harbor, keep or control a vicious animal.

(c) Affirmative defense. The affirmative defenses set forth herein shall not apply to any vicious animal that has engaged in or been trained for animal fighting as said term is described in Section 18-9-204, C.R.S. Except as otherwise noted, the following circumstances shall constitute an affirmative defense to a violation of the foregoing Subsection (b) in the following manner:

(1) At the time of the attack by the vicious animal which causes injury to a domestic animal, the domestic animal was at large, was an estray and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;

(2) At the time of the attack by the vicious animal which causes injury to a domestic animal, said domestic animal was biting or otherwise attacking the vicious animal or its owner;

(3) At the time of the attack by the vicious animal which causes injury to 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, and the attack did not occur on the owner's property;

(4) At the time of the attack by the vicious animal which causes injury to 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 or the property itself, and the attack began, but did not necessarily end, upon such property; or

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

(d) Protective order. Upon entry of sentence pursuant to a plea of or finding of guilt for a violation of Subsection (b), the Municipal Court shall order the defendant to:

(1) Confine such vicious animal in a building or enclosure designed to be escape-proof and, whenever such vicious animal is outside of such building or enclosure, the vicious animal shall be securely muzzled and restrained by a secure collar and leash under the direct physical control of the owner or other responsible person at all times.

(2) Display in a prominent place on the defendant's premises a sign easily readable by the public from the public street using the words "Beware of Vicious Dog," if the vicious animal is a dog, and the words "Beware of Vicious Animal," if the vicious animal is not a dog.

(3) Immediately report to the Shelter Operator any material change in the vicious animal's situation, including but not limited to a change of address, escape or death.

(4) At the defendant's expense, permanently identify the vicious animal through the implantation of a microchip by a licensed veterinarian or a licensed shelter. The owner shall file the veterinary record of the microchip implantation with the Shelter Operator.

(5) Prior to the implantation of the microchip, pay a nonrefundable vicious dog microchip license fee of fifty dollars ($50.00) to the Shelter Operator.

(e) Violation, failure to comply. It shall be unlawful and a strict liability offense for any person convicted of violating Subsection (b) who has been personally served with a copy of the protective order issued under Subsection (d) to continue to own, possess, harbor, keep or control the vicious animal which was the subject of such conviction in violation of the provisions of the protective order.

(f) Violation, breeding of vicious animal. It shall be unlawful and a Class 1 municipal offense for any person to possess with intent to sell, offer for sale, breed, buy or attempt to buy within the City any animal which has been adjudicated to be a vicious animal pursuant to a conviction under Section 18-9-204.5, C.R.S.

(g) Violation, animal fighting. It shall be unlawful and a Class 1 municipal offense for any person to own or harbor any animal for the purpose of animal fighting or to train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to unprovoked attacks upon human beings or domestic animals.

(h) Impoundment and euthanization.

(1) It shall be the duty of the Animal Control Officer to impound an animal whose acts form the basis for issuance of a complaint for violation of Subsection (b) if the animal presents a continuing threat of serious harm to persons or domestic animals.

(2) It shall be the duty of the Animal Control Officer to impound an animal, which has been adjudicated to be a vicious animal pursuant to a conviction under Subsection (b) or to be a dangerous dog pursuant to a conviction under Section 18-9-204.5, C.R.S., where such animal is found beyond the premises of its owner and not securely muzzled and restrained by a secure collar and leash.

(3) Any animal impounded pursuant to the requirements of this Section shall not be released pending disposition of any euthanization hearing or related criminal charges under this Section except on order of the Municipal Court who may direct the owner to pay all impounding fees. Subject to the foregoing limitation and the exception noted herein, an impounded vicious animal shall be handled and processed according to the requirements set forth in Section 11-4-16 of this Code and, if applicable, Section 11-4-13 of this Code, except that no vicious animal shall be sold or put up for adoption. Any vicious animal which is deemed abandoned under Section 11-4-16 shall be humanely euthanized.

(4) The Municipal Court is authorized to order the released of any animal impounded pursuant to this Section when, in the Municipal Court's judgment, said animal does not represent a continuing threat of serious harm to persons or domestic animals. If, in the Municipal Court's judgment, the animal represents a continuing threat of serious harm to persons or domestic animals, the Municipal Court may order said animal to be humanely euthanized.

(i) Application. Subsection (b) shall have no application to the following:

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

(2) To any dog which causes the death of a person;

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

(4) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog. (Ord. No. 4860, 4-13-81; Ord. No. 5494, 9-12-88; Ord. No. 5762, 7-27-92; Ord. No. 6150, 11-25-96; Ord. No. 6600, 10-10-00; Ord. 7273 §1, 2-14-05; Ord. No. 8623 §2, 8-26-13)

Sec. 11-4-15. Restraining.

(a) It shall be unlawful and a municipal offense for any person owning or having charge of any dog or other animal except a domestic cat to permit such animal to be at large. A dog or other animal shall be deemed to be at large when it is off or away from the premises of its owner or person having charge thereof, and not under the direct physical control of such person or another by either leash, cord or chain. An animal found at large and not in the charge of such a person shall be impounded by an Animal Control Officer. Animals injured on public property shall be impounded and given adequate veterinary medical treatment pending notification of the owner.

(b) Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure structure or enclosure of sufficient construction so as to prevent other dogs from gaining access to the confined animal; provided, however, that this Subsection (b) shall not operate to prohibit the controlled breeding of such animal with another dog if the owner of such other dog consents to the breeding of the animals. The owner of any such dog who fails to confine the same as required by this Section may be ordered by an Animal Control Officer to have the animal confined in a boarding kennel, veterinary hospital or animal shelter; provided that, upon the failure of the owner to do so within three (3) days, such dog may be impounded by an Animal Control Officer. All expenses of such confinement shall be the sole responsibility of the dog owner. (Ord. No. 4860, 4-13-81; Ord. No. 5644, 11-26-90; Ord. No. 6600, 10-10-00; Ord. No. 8623 §3, 8-26-13)

Sec. 11-4-16. Disposition of impounded animals.

(a) As soon as practical after the impoundment of any animal, notice of impoundment shall be posted in a conspicuous place at the Pueblo Animal Shelter for five (5) consecutive days. If the owner of the impounded animal can be determined by examination of the animal's vaccination tag or from other identifying tags or markings, immediate notice shall be given to said owner.

(b) Any impounded animal may be redeemed by the owner upon payment of the impound fee, care and feeding charges, veterinary charges, if any, and such other charges as periodically established by the City or designated Shelter Operator. If the animal has not been vaccinated for rabies and is required by the provisions of this Chapter to be so vaccinated, the owner shall not be given custody of the animal until steps are taken to so vaccinate the animal. Unless otherwise

modified by resolution of the City Council or by the designated Shelter Operator, the redemption amounts identified herein shall be charged.

(1) Redemption amounts; impoundment. The redemption amount for charges associated with the impoundment of an animal is thirty dollars ($30.00) for the first impoundment, forty dollars ($40.00) for the second impoundment and sixty dollars ($60.00) for the third impoundment and each impoundment thereafter within a twelve-month period.

(2) Redemption amounts; daily care and feeding. The redemption amount for charges associated with the daily care and feeding of an impounded animal shall be as follows:

a. Impounded but not quarantined dog, ten dollars ($10.00) per day;

b. Impounded but not quarantined cat, ten dollars ($10.00) per day;

c. Impounded and quarantined dog, fifteen dollars ($15.00) per day;

d. Impounded and quarantined cat, fifteen dollars ($15.00) per day; and

e. All other animals, ten dollars ($10.00) per day.

(c) If an animal is not redeemed within five (5) days after the receipt of notice by the owner or within five (5) days after impoundment if the owner cannot be determined, it shall be deemed abandoned and become the property of the Shelter Operator. Upon adoption of any animal eligible for adoption from the Shelter Operator, and payment of the adoption fee therefor, the animal shall be either spayed or neutered by a licensed veterinarian at the animal shelter or the person adopting the animal shall execute a written agreement that the animal will be spayed or neutered within thirty (30) days of adoption and release. No animal adopted from the animal shelter shall be released without first having been spayed or neutered or before the written agreement is filed with the Shelter Operator.

(1) Where an adopted animal is released pursuant to a written agreement to spay or neuter the animal, the person adopting the animal shall file, within thirty (30) days of the animal's release, proof of the fact that the animal has been spayed or neutered by submitting to the Shelter Operator a certification from the appropriate spay-neuter clinic, veterinarian or other provider of such services.

(2) In the event a person signs an agreement to spay or neuter an animal pursuant to this Subsection (c), it shall be unlawful and a Class 1 municipal offense for such person to fail to timely spay or neuter the animal pursuant to the agreement or to fail to timely file proof of such fact with the Shelter Operator.

(3) In the event a person signs an agreement to spay or neuter an animal pursuant to Paragraph (2) above and such person fails to timely file proof of the fact that the animal has been spayed or neutered, the Animal Control Officer may petition the Municipal Court to order the seizure and impoundment of the animal.

(d) The Shelter Operator and its employees may humanely euthanize any abandoned animals not sold or adopted within a reasonable time. If it is found that any impounded animal is infected with rabies or other infectious or contagious disease, such animal shall be humanely euthanized upon the recommendation of a licensed veterinarian.

(e) The Shelter Operator shall establish a spay/neuter program in order to implement the spaying or neutering of animals from the Shelter Operator in accordance with Subsection (c) of this Section. The program shall provide for the following minimum requirements:

(1) Any licensed veterinarian shall be permitted to participate in the program by agreeing to perform spay/neuter procedures upon animals adopted from the Shelter Operator.

(2) Spay/neuter procedures shall be performed in accordance with recognized practice of veterinarians and according to the standard of care in effect for such procedures in this region.

(3) No participating veterinarian shall have any claim against the City for compensation for services, fees, equipment or supplies, or for damages or injury to persons or property, arising from or related to the performance of spay/neuter procedures upon animals located at or transported or adopted from the Pueblo Animal Shelter unless such veterinarian has a duly authorized contract therefor with the City and such claim is made in accordance with the terms of said contract. For purposes of this Subsection, the Shelter Operator shall not be deemed an agent of the City. Nothing in this Subsection is intended to prohibit, impair, affect or modify any provision in any agreement between a veterinarian and any nonprofit corporation acting as Shelter Operator.

(f) Nothing in this Section shall be construed so as to hold the City, the Shelter Operator, nor the officers or agents of either, responsible for any damage to persons or property for any action taken in connection with the administration and enforcement of this Chapter.

(g) No person, or group of persons residing in the same household, may adopt from the Pueblo Animal Shelter more than four (4) animals in any one (1) calendar year. (Ord. No. 4591, 4-9-79; Ord. No. 4860, 4-13-81; Ord. No. 5677, 5-13-91; Ord. No. 6600, 10-10-00; Ord. No. 7275 §1, 2-14-05; Ord. No. 8326 §1, 3-28-11)

Sec. 11-4-17. Pueblo Animal shelter; interference; false reports.

(a) An animal shelter to be known as the Pueblo Animal Shelter shall be provided for the purpose of boarding and caring for any animal impounded under the provisions of this Chapter, and such shelter shall be constructed to facilitate cleaning and sanitizing and shall provide fenced runs and adequate heating, food and water supply.

(b) It shall be unlawful and a Class 1 municipal offense for any person to remove or attempt to remove any impounded animal from the animal shelter without having first obtained authorization to do so from the Animal Control Officer, Shelter Operator or other person then in charge of said shelter.

(c) It shall be unlawful for any person to knowingly obstruct, hinder or interfere with an Animal Control Officer acting under color of his or her official authority, in the discharge or apparent discharge of his or her duties:

(1) By means of physical force or violence or by threats of imminent physical force or violence; or

(2) By means of harassing conduct after being warned by an Animal Control Officer that such conduct is unlawful and may result in the arrest of the person if such conduct is not discontinued.

(d) A violation of Paragraph (c) above is a Class 2 municipal offense; except that if the violation is committed by means of physical force or violence or by threats of physical force or violence, the violation is a Class 1 municipal offense.

(e) It shall be unlawful and a Class 2 municipal offense for any person to knowingly make or cause to be made a false, misleading or unfounded report to an Animal Control Officer concerning the commission or alleged commission by another person of any offense or violation of any City ordinance; or to knowingly give false or misleading information to an officer or employee of the Shelter Operator when such officer or employee is acting in his or her official capacity and the information (1) relates to a matter within the official concern of the officer or employee and (2) materially interferes with the discharge of such officer's or employee's official duty. (Ord. No. 6600, 10-10-00)

Sec. 11-4-18. Spread of rabies.

Whenever the City Manager, upon recommendation of the Health Department or the City Council, shall apprehend the danger of rabies in the City, the City Manager shall issue a proclamation requiring every person owning an animal to confine it securely on his or her premises unless such animal shall be leashed and shall have a muzzle of sufficient strength to prevent its biting any person or animal. Any dog or other animal at large during the pendency of such proclamation shall be seized and impounded by the proper authorities. Upon issuance of said proclamation, the owners of all cats shall henceforth have said cats vaccinated in the same manner as provided by this Chapter for the vaccination of dogs. (Ord. No. 6600, 10-10-00)

Sec. 11-4-19. Poisoning of animals.

It shall be unlawful and a Class 1 municipal offense for any person to poison any wild or domesticated animal, including dogs and other household pets, or to distribute any poison in any manner whatsoever with the intent or for the purpose of poisoning any wild or domesticated animal; provided, however, that this Section shall have no application to the use of poisons by licensed veterinarians, nor to the use of poisons designed to kill insects or wild prairie dogs, rats and mice. The distribution of any poisons or poisoned meats or foods, other than those designed to kill insects, rats, prairie dogs and/or mice, shall constitute prima facie evidence of a violation of this Section. (Ord. No. 4592, 4-9-79; Ord. No. 6600, 10-10-00)

Sec. 11-4-20. Penalties.

(a) Unless otherwise specified, the punishment for violation of an offense described in this Chapter shall be a fine of not more than one thousand dollars ($1,000.00).

(b) The punishment for violation of an offense defined as a Class 1 municipal offense shall be a fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than one (1)

year, or both such fine and imprisonment, provided that, if the person found guilty of a violation of a Class 1 municipal offense was under eighteen (18) years of age at the time of the offense, the court shall not impose a jail sentence.

(c) The punishment for violation of an offense defined as a Class 2 municipal offense shall be a fine of not more than one thousand dollars ($1,000.00).

(d) Any person found guilty of violating Section 11-4-14 of this Chapter shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the dog or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

(e) In addition to the penalties provided herein, any person convicted of violating Section 11-4-15, 11-4-22, 11-4-23, 11-4-24, 11-4-25, 11-4-27, 11-4-28, 11-4-31, 11-4-32, 11-4-33, 11-4-43, 11-4-47 or 11-4-48 of this Chapter shall be assessed a surcharge for each count of such conviction, to be known as the Keep Pueblo Beautiful Surcharge, in the amount of twenty-five dollars ($25.00). In the case of an unemancipated minor, the parents or guardians of the minor shall be jointly and severally liable for this surcharge and shall be ordered to pay the same. This surcharge may only be waived by the Court upon a bona fide finding that the defendant is indigent, or in the case of a minor, that the minor's parents or guardians are indigent. This surcharge shall be collected by the Municipal Court and paid into the City's general fund. (Ord. No. 3953, 12-23-74; Ord. No. 4593, 4-9-79; Ord. No. 4860, 4-13-81; Ord. No. 5494, 9-12-88; Ord. No. 6600, 10-10-00; Ord. No. 7937 §22, 12-8-08; Ord. No. 8194 §5, 5-10-10)

Article II
General

Sec. 11-4-21. Animals; cruelty to.

It shall be unlawful and a Class 1 municipal offense for any person to commit or to assist another in committing any act of cruelty, harassment, abandonment or torture to any animal, or to cause such animal to be wounded, mutilated, strangled or inhumanely killed. For the purpose of this Section, *act of cruelty* shall include but not be limited to beating, mistreating, tormenting, overloading, overworking, neglecting, failing to adequately feed or otherwise abusing any animal. Ownership of an animal shall not constitute a valid affirmative defense to a charge of violating any of the provisions of this Section. It shall also be unlawful and a Class 1 municipal offense for any person to cause, instigate or permit any dog fight or combat between animals or between animals and humans. (Ord. No. 4594, 4-9-79; Ord. No. 6056, 2-12-96; Ord. No. 6600, 10-10-00)

Sec. 11-4-22. Crating and cooping fowls; construction; cleanliness.

(a) Height. All coops, crates or cages in which live fowls, poultry or other birds are received for transportation or are kept confined or exposed for sale on wagons or stands, or by the owners of grocery stores, commission houses or other market houses or by other persons, shall be sufficiently high so that fowls or other birds confined therein can stand erect and hold their heads upright without touching the top.

(b) Wire, troughs. Such coops, crates or cages shall be made of open slats or wire on at least three (3) sides and shall have troughs or other receptacles with easy access all times by the birds confined therein, but so placed that their contents cannot be befouled by the birds. Said troughs shall constantly contain clean water and suitable food.

(c) Cleanliness, room for birds. Such coops, crates or cages shall be kept in a clean and wholesome condition. Fowls or other birds confined therein shall not be overcrowded, but shall have room to move about, and shall not be exposed to undue heat or cold.

(d) Removing dead or unhealthy birds; transfer. Dead, injured or diseased fowls shall be at once removed. Whenever live fowls or poultry shall be received for sale or storage, they shall immediately be transferred to such coops, crates or cages as are herein described. (1957 Code, §5-2; Ord. No. 6600, 10-10-00)

Sec. 11-4-23. Manure; accumulation; disposition.

(a) The accumulation or failure to dispose of animal droppings and manure is hereby declared to be a nuisance and detrimental to the health and welfare of the people of the City. All animal droppings and manure shall be removed and disposed of by the owners, tenants or occupants of the premises where produced, at such frequent and regular intervals as shall be prescribed by the Health Department. It shall be unlawful and a municipal offense for any person to permit animal droppings or manure to remain for such a time or to accumulate in such quantity as to attract flies or other insects or to generate noisome odors.

(b) It shall be unlawful and a municipal offense for any person owning or having the control of any animal to permit such animal to defecate on private property or public property within the City, other than upon property owned by or under the control of said owner or person having control of the animal, without immediately cleaning or removing the excrement to a proper receptacle.

(c) All manure shall be disposed of by delivery to a designated dump site or to such other places only as shall be designated from time to time by the Health Department, and it shall be unlawful for any person to deliver or dump manure within the limits of the City or within one (1) mile of the outer boundaries thereof, except at such designated dump sites. This Section shall not prohibit the use of manure composting or soil conditioning, provided that the same shall be completely covered by earth. Nor shall this Section prohibit the use of manure as fertilizer, provided that manure used for such purpose shall be well rotted, ground or pulverized and shall be worked into the lawn or garden area without unreasonable delay. (1957 Code, §§13-5(b), 13-8(b); Ord. No. 6600, 10-10-00)

Sec. 11-4-24. Disposition of animal carcasses.

It is hereby declared to be a nuisance and it shall be unlawful and a municipal offense for any person to permit the carcass of any animal to remain upon property owned, controlled or occupied by such person in the City for a period of more than twenty-four (24) hours following the death of such animal, or to bury the carcass of any animal upon any property within the City. (1957 Code, §5-2.5; Ord. No. 6600, 10-10-00)

Sec. 11-4-25. Storage of grain feeds in rodent-proof containers.

All grain feeds for all animals and fowls shall be stored and kept in a rodent-proof container or room which shall be kept securely closed at all times while not being used to take feed therefrom or replenish same. (1957 Code, §5-2.7; Ord. No. 6600, 10-10-00)

Sec. 11-4-26. Maiming; abandoning; rendering aid.

It shall be unlawful and a municipal offense for any person to abandon any dog or other small animal or to fail to stop and attend to such animal if such person strikes it with a vehicle, or to in any way maim or harm any such animal. (1957 Code, §5-18; Ord. No. 6600, 10-10-00)

Sec. 11-4-27. Picketing and grazing animals forbidden.

It shall be unlawful and a municipal offense for any person to picket or tie any animal on or along any street, alley or sidewalk in such manner that such animal may graze or browse upon the grass, herbage or trees growing upon or along such street, alley or sidewalk, or in such manner as to obstruct or impede the full use thereof. (1957 Code, §24-8; Ord. No. 6600, 10-10-00)

Sec. 11-4-28. Driving or herding animals forbidden.

It shall be unlawful and a municipal offense for any person to herd or graze any livestock or cause such animals to be herded or grazed within the City except upon land zoned for agricultural use, or upon land where permitted as a nonconforming use, provided that such grazing or herding shall be done in compliance with all applicable ordinances of the City. (Ord. No. 3688, 4-9-73; Ord. No. 6600, 10-10-00)

Secs. 11-4-29—11-4-30. Reserved.

Article III
Nuisances

Sec. 11-4-31. Keeping of animals and fowl which disturb comfort, peace, etc., of neighborhood.

(a) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to keep or permit upon any parcel of land within the City any animal or fowl which by any sound, cry or offensive odor shall disturb the peace and comfort of any neighborhood, or interfere with any person in the reasonable and comfortable enjoyment of life or property, or in any other manner present an unreasonable hazard to the public health, safety or welfare.

(b) For the purpose of this Section, it shall be presumed that the barking, whining, howling, baying or crying of any dog continuously for a period of time in excess of five (5) minutes or intermittently for a period of time in excess of one (1) hour, which is plainly audible from a distance of twenty-five (25) feet from the property line of the premises where the dog is kept, constitutes a nuisance. The presumption may be rebutted by evidence that such barking, whining, howling, baying or crying was caused, at that relevant time, by either taunting of the dog by a person or persons other than the owner or person in control of the dog, injury to the dog which is not the result of neglect or

abuse by the owner or person in control of the dog, or trespass upon the premises where the dog is kept. (1957 Code, §5-2.4; Ord. No. 6600, 10-10-00)

Sec. 11-4-32. Nuisances; certain fowl and animals.

(a) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to suffer or permit any chicks, chickens, geese, ducks or turkeys, or any hare or hares, rabbit or rabbits, or cavy or cavies owned or controlled by such person to run at large or to go upon the premises of any other person in the City.

(b) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to keep or maintain any chicks, chickens, geese, ducks, turkeys, pigeons, doves or squabs in an enclosed structure or building within eight (8) feet of the property line of any adjacent improved lot or parcel of land or in an unenclosed structure or open pen or run within fifteen (15) feet of such property line or, whether enclosed or unenclosed, within fifty (50) feet of any dwelling other than that occupied by such person.

(c) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to keep or maintain any hare or hares, rabbit or rabbits, or cavy or cavies in any structure, enclosed or unenclosed, within ten (10) feet of the property line of any adjoining improved lot or parcel of land or within forty (40) feet of any dwelling other than that occupied by such person.

(d) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to keep or maintain in the City more than ten (10) "standard" chickens or ten (10) "bantam" chickens over the age of four (4) months. A "bantam" chicken is one which weighs less than thirty (30) ounces at maturity. A "standard" chicken is any chicken other than a "bantam" chicken as herein defined.

(e) It is hereby declared to be a nuisance, and shall be unlawful and a municipal offense for any person, other than where a limited use permit has been authorized pursuant to Chapter 5 of Title XVII for pigeon and dove keeping, to keep or maintain in the City more than forty (40) adult pigeons or doves over the age of three (3) months and their young.

(f) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to keep or maintain in the City more than ten (10) rabbits, hares or cavies over the age of eight (8) months, and the offspring of such rabbits, hares or cavies.

(g) It is hereby declared a nuisance, and it shall be unlawful and a municipal offense for any person to keep or maintain in the City more than ten (10) units of animals, fowls or animals and fowls mentioned in this Section, mixed or otherwise, except as hereinabove provided. It shall be unlawful for any person to keep or maintain in the City more than two (2) units of animals or fowls or animals and fowls mentioned in this Section as pets. For purposes of computation, each adult rabbit over the age of eight (8) months shall be considered as one (1) unit, each adult chicken over the age of four (4) months shall be considered one (1) unit, and four (4) adult pigeons or doves over the age of three (3) months shall be considered as one (1) unit.

(h) Nothing contained in Subsections (d), (e), (f) and (g) of this Section shall be construed to limit the number of animals kept or maintained upon land zoned for agricultural use, provided that

said animals are kept or maintained in compliance with all applicable ordinances of the City. (1957 Code, §5-2.1; Ord. No. 3688, 4-9-73; Ord. No. 6600, 10-10-00; Ord. No. 8489 §1, 6-11-12)

Sec. 11-4-33. Prohibited animals.

(a) It is hereby declared to be a nuisance, and it shall be unlawful and a municipal offense for any person to keep, pasture or maintain in the City any wild animals, poisonous snakes, constricting snakes over twelve (12) feet in length, hogs, pigs, swine, sheep, horses, emus, rheas, ostriches, llamas, cattle, pea fowl, guinea hens or goats, except in a public zoo; except that hogs, pigs, swine, sheep, horses, cattle, pea fowl, guinea hens or goats may be kept upon land zoned for agricultural use, provided that said animals are kept, pastured and maintained in compliance with this Chapter and all applicable ordinances of the City.

(b) Notwithstanding anything to the contrary in Subsection (a) of this Section, it shall not be unlawful for any person to possess, harbor, keep or maintain not more than one (1) domesticated pot-bellied pig upon any premises within the City, provided that said person complies with all other provisions of this Chapter. (1957 Code, §5-2.3; Ord. No. 3688, 4-9-73; Ord. No. 4860, 4-13-81; Ord. No. 5912, 11-14-94; Ord. No. 6600, 10-10-00)

Secs. 11-4-34—11-4-42. Reserved.

Sec. 11-4-43. Licenses.

(a) It shall be unlawful and a Class 2 municipal offense for any person to own, keep or harbor a dog or cat over the age of six (6) months within the City without obtaining a license for such dog or cat.

(b) This Section shall not apply to dogs or cats:

(1) Temporarily within the City for not more than thirty (30) days;

(2) Located in licensed pet shops or at licensed dog racing facilities; or

(3) Held for redemption or sale by a licensed animal shelter. (Ord. No. 6799 §1, 3-25-02; Ord. No. 7005 §1, 7-14-03)

Sec. 11-4-44. License application; issuance.

(a) Applications for licenses shall be made on forms furnished by the License Officer.

(b) Upon presentation of an application together with a copy of the vaccination certificate or the Exemption from Rabies Vaccination Form issued for the dog or cat pursuant to Section 11-4-3 to the License Officer, or a veterinarian or licensed animal shelter designated in writing by the License Officer, and payment of the appropriate license fee, a license receipt for the dog or cat and a tag bearing a number corresponding to that of the receipt shall be issued. If an application is made to license a spayed/ neutered dog or cat, the applicant shall in addition furnish satisfactory evidence that the dog or cat has been spayed/neutered, which evidence may consist of a certificate signed by a

veterinarian or the affidavit of the owner that the dog or cat has been spayed/neutered. Without such evidence, the license issued and fee paid shall be for a dog or cat which has not been spayed/neutered.

(c) The person issuing the license shall complete a license receipt on forms furnished by the License Officer, file the original with the License Officer and deliver a copy to the owner.

(d) Licenses may be renewed upon payment of the necessary fees and presentation of a current vaccination certificate issued pursuant to Section 11-4-3. If a license is not renewed within sixty (60) days after the license expires, a completed application for a new license must be made pursuant to Subsection (b) above.

(e) Applications for licenses may be made in person or by mail or electronically, if available.

(f) Licenses and tags are not transferable. (Ord. No. 6799 §1, 3-25-02; Ord. No. 6919 §1, 12-9-02; Ord. No. 7806 §3, 5-27-08; Ord. No. 8309 §3, 2-14-11)

Sec. 11-4-45. Licenses; expiration; fees.

(a) Licenses and tags may be issued and be valid for one (1) year or three (3) years from the date of issuance.

(b) The license fee for one (1) year shall be twenty-five dollars ($25.00) for each dog or cat which has not been spayed/neutered or twelve dollars ($12.00) for each dog or cat which has been spayed/neutered.

(c) The license fee for three (3) years shall be sixty-five dollars ($65.00) for each dog or cat which has not been spayed/neutered or thirty-three dollars ($33.00) for each dog or cat which has been spayed/neutered.

(d) License fees shall not be prorated or refunded.

(e) If a license tag or license receipt issued in accordance with Section 11-4-44 is lost or destroyed, a duplicate tag or receipt may be reissued for the payment of five dollars ($5.00).

(f) Veterinarians issuing a license under this Section shall retain one dollar ($1.00) for each one-year license issued and three dollars ($3.00) for each three-year license issued and shall surrender the balance of all license fees collected as the License Officer may direct.

(g) No license fee shall be required for:

(1) Guide dogs for the blind or deaf;

(2) Service dogs used by the handicapped; or

(3) Law enforcement service and rescue dogs.

(h) The City Council may by resolution increase or decrease the impound fees, boarding fees, license fees and litter registration fees.

(i) All license fees and litter registration fees shall be paid to and collected by the License Officer and/or the Shelter Operator. If the License Officer is the Shelter Operator, the Shelter Operator shall hold such fees in trust for the use and benefit of the City and pay and disburse such fees as directed in writing by the City Manager of the City after deducting therefrom an administrative fee of one hundred percent (100%) of the fees collected as compensation for the Shelter Operator's services. (Ord. No. 6799 §1, 3-25-02; Ord. No. 7806 §3, 5-27-08; Ord. No. 8326 §2, 3-28-11)

Sec. 11-4-46. License tags.

(a) It shall be unlawful and a Class 2 municipal offense for an owner of a dog over the age of four (4) months or older to fail to cause the license tag to be attached to the collar, harness or other device worn by the licensed dog and to thereafter maintain the license tag upon such dog. If any dog is found not wearing a collar with the license tag attached, the owner of the dog shall be deemed in violation of this Section.

(b) It shall not be required of the owner of any cat to affix the license tag to the licensed cat; however, it shall be unlawful and a Class 2 municipal offense for the owner of a cat to fail or refuse to exhibit the tag issued for the cat and his or her copy of the license receipt upon demand of any person enforcing this Chapter. (Ord. No. 6799 §1, 3-25-02)

Sec. 11-4-47. Litter permits.

(a) All litters, or a portion thereof, of puppies or kittens that are to be whelped, queened, sold, traded, bartered, given away or otherwise transferred within the City shall have a litter permit and a registration number.

(b) The owner of a litter shall obtain a litter permit and registration number within one (1) week after obtaining possession of any litter, or portion thereof, of puppies or kittens.

(c) The registration fee for each litter, or portion thereof, shall be twenty dollars ($20.00).

(d) Litter permits and registration shall be made and issued in the same manner as licenses are issued under Section 11-4-44, except that no vaccination certificate shall be required.

(e) The litter permit and registration requirements of this Section shall not apply to licensed pet shops or licensed animal shelters.

(f) It shall be unlawful and a Class 2 municipal offense for any person to violate any provision of this Section. (Ord. No. 6799 §1, 3-25-02)

Sec. 11-4-48. Sale in public places.

(a) No person shall display any dog or cat for the purpose of selling or giving the dog or cat away:

(1) On any street, highway, alley, sidewalk, public place or park; or,

(2) In an open area where the public is invited by the owner or person controlling such area, including, but not limited to, areas exterior to shops or businesses, carnivals and flea markets.

(b) Subsection (a)(2) above shall not be applicable to the display of any dog or cat for adoption by the Shelter Operator or by a tax-exempt nonprofit organization whose purpose is to protect dogs and cats, including the humane treatment and disposition of dogs and cats; provided, however, that such organization:

(1) Holds a current license issued under the Colorado Pet Animal Care and Facilities Act for a pet animal facility located in Pueblo County, Colorado,

(2) Does not engage in the business of breeding or raising dogs or cats, and

(3) Does not coax or cajole any person to adopt a dog or cat.

(c) It shall be unlawful and a Class 2 municipal offense for any person to violate any provision of this Section. (Ord. No. 6799 §1, 3-25-02; Ord. No. 6919 §2, 12-9-02; Ord. No. 7005 §2, 7-14-03)

Article IV
Reserved

Article V
Regulation of Feral Cats

Sec. 11-4-51. Definitions.

As used in this Chapter, the term:

(1) *Feral Cat* means any homeless, stray, wild or untamed cat belonging to the family *Felis catus.*

(2) *Feral Cat Colony* or *Colony* means a group of homeless, stray, wild or untamed cats living together as a unit.

(3) *Feral Cat Colony Manager* means any individual who has been appointed by the City or its animal control representative to assist in the management and control of a colony of feral cats. (Ord. No. 8356 §2, 6-13-11)

Sec. 11-4-52. Unlawful care.

(a) It is unlawful, and a Class 2 municipal offense for any person other than a Feral Cat Colony Manager or Shelter Operator or his or her designee to intentionally provide food, water or other forms of sustenance to a Feral Cat or Feral Cat Colony.

(b) It is unlawful, and a Class 2 municipal offense for anyone to intentionally provide food, water or other forms of sustenance to a Feral Cat or Feral Cat Colony without first being appointed a Feral Cat Colony Manager. (Ord. No. 8356 §2, 6-13-11)

Sec. 11-4-53. Responsibilities of Feral Cat Colony Managers.

(a) Individuals deemed to be qualified by the Shelter Operator may be appointed from time to time to serve as Feral Cat Colony Managers. The Shelter Operator may, within his or her sole discretion, limit the number of individuals appointed as Feral Cat Colony Managers. Such appointments shall remain in effect until terminated by resignation or revocation. Feral Cat Colony Managers shall serve at the will of the City or Shelter Operator, and their appointment may be revoked at any time.

(b) Feral Cat Colony Managers shall register each Feral Cat Colony he or she cares for with the Shelter Operator. Feral Cat Colony Managers shall be required to provide the general location and/or territory of the Colony, together with a written census, as described in Subsection (g) below, for the Colony upon registration of any Feral Cat Colony. Upon registration of the Feral Cat Colony, the Feral Cat Colony Manager will receive a written permit from the Shelter Operator that will allow the Feral Cat Colony Manager to care for the Feral Cat Colony.

(c) Feral Cat Colony Managers shall provide food, water and medical care on a regular basis to Feral Cats in a Feral Cat Colony. If the Feral Cat Colony Manager is unable to provide food, water and medical care due to illness, vacation or some other temporary situation, the Feral Cat Colony Manager shall designate a capable person to care for the Feral Cats in his or her absence.

(d) Feral Cat Colony Managers are authorized to and shall take all appropriate and available steps to cause Feral Cats in a Feral Cat Colony over the age of eight (8) weeks to be trapped, spayed or neutered and returned to the Feral Cat Colony.

(e) Feral Cat Colony Managers shall cause all Feral Cats trapped for spaying or neutering, as described in Subsection (d) above, to be inoculated against rabies and such other feline diseases as may be age-appropriate and required by this Chapter or applicable state law prior to their return to the Feral Cat Colony.

(f) Feral Cat Colony Managers shall cause all Feral Cats trapped for spaying or neutering, as described in Subsection (d) above, to be identified by ear clipping or other mechanism as may be determined from time to time by the City or its Shelter Operator prior to their return to the Feral Cat Colony.

(g) Feral Cat Colony Managers shall keep a written census of the Colony that describes each cat, its color, breed, sex and notes the dates it was taken to a veterinarian for altering, vaccinations and any other medical care.

(h) Feral Cat Colony Managers shall report annually to the Shelter Operator on the Colony, including but not limited to the following information: the Colony's location; the number of Feral Cats; the number of kittens; the number of Feral Cats altered during the year; the number of deaths of Feral Cats. This information, along with the changes to the written colony census required to be maintained by this Section, shall be sent to the Shelter Operator either by electronic or regular mail.

(i) A Feral Cat Colony Manager in compliance with the terms and conditions of this Section shall be exempt from the provisions of Sections 11-4-9 and 11-4-43 of this Chapter. A Feral Cat Colony Manager in compliance with the terms and conditions of this Section shall not be considered to be violating the restriction imposed by Subsection 11-4-9(b) on the number of cats that may be kept at any one (1) place, or on any premises, or in any one (1) residence without a cattery license unless the Feral Cat Colony Manager's actions are determined to be more like the actions of an actual owner or person in custody and control of the cats than a Colony Manager. (Ord. No. 8356 §2, 6-13-11)

Sec. 11-4-54. Disposition of Feral Cat Colony cats.

Any cat, ear-tipped, feral or otherwise, trapped and/or turned into the Animal Shelter or an Animal Control Officer, shall go through the regular and usual disposition process as set forth in Section 11-4-16 of this Chapter. (Ord. No. 8356 §2, 6-13-11)

Sec. 11-4-55. Enforcement of provisions by Shelter Operator.

(a) The Shelter Operator or an Animal Control Officer shall have the right to trap in a humane manner any cat that is deemed to be a threat to public health or safety. Any Feral Cat considered a vicious animal shall be confined and euthanized, if appropriate, as provided in Section 11-4-14 of this Chapter.

(b) Nothing in this Section shall limit an Animal Control Officer's ability to trap and impound stray cats that present a nuisance as set forth in Section 11-4-8 of this Chapter. (Ord. No. 8356 §2, 6-13-11)

CHAPTER 5

Civil Emergencies

Sec. 11-5-1. Declaration of policy.

The City declares that the purpose of this Chapter is to protect and preserve the public health, safety and welfare and protect property from the existing possibility or threat of a riot; unlawful assembly accompanied by the use of actual force or violence or any threat to use force if accompanied by immediate power to exercise such force; natural disaster or man-made calamity, including but not limited to flood, conflagration, cyclone, tornado, earthquake or explosion; or any public disorder, by providing a procedure whereby immediate action can be taken by the City administration to protect the public health, safety and welfare and to protect property. (1957 Code §9A-1)

Sec. 11-5-2. Definitions.

(a) A *civil emergency* is hereby defined to be:

(1) A riot, civil disturbance 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 such force by three (3) or more persons acting together without authority of law.

(2) Any natural disaster or man-made calamity, including but not limited to flood, conflagration, cyclone, tornado, earthquake, explosion or public disorder within the corporate limits of the City resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety or welfare, and to protect public or private property.

(b) *Curfew* is hereby defined as a prohibition against any person walking, running, loitering, standing, being upon or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City. *Curfew* shall not apply to persons officially assigned to carry out duties with reference to said civil emergency. (1957 Code, §9A-2)

Sec. 11-5-3. Declaration of emergency.

The City Manager is authorized if, in his or her judgment, he or she finds that the City or any part thereof is suffering from any civil emergency as herein defined, to declare a state of civil emergency by proclaiming in writing the existence of same. (1957 Code, §9A-3)

Sec. 11-5-4. Curfew.

After proclamation of a civil emergency by the City Manager, he or she may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as he or she deems advisable, and applicable during such hours of the day or night as he or she deems necessary in the public safety and welfare. (1957 Code, §9A-4)

Sec. 11-5-5. Powers during civil emergency.

After the proclamation of a civil emergency and during its continued existence, the City Manager may also make any or all of the following orders:

(1) Order the closing of all retail liquor establishments and retail beer outlets and order the discontinuance of the sale or service of alcoholic beverages and 3.2% beer in any hotel, restaurant, club or other establishment.

(2) Order the closing of gasoline stations and other establishments the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products, and order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(3) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(4) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

(5) Prohibit the sale, carrying or possession on the streets, sidewalks, alleys, parks or playgrounds, of weapons including, but not limited to, firearms, bows and arrows, air rifles, slingshots, knives, razors or missiles of any kind.

(6) Issue such other orders as are imminently necessary for the protection of life and property. (1957 Code, §9A-5; Ord. No. 3180, §1, 3-25-68)

Sec. 11-5-6. Duration.

The state of civil emergency declared by the City Manager shall exist for a period of two (2) weeks, unless sooner rescinded, and may be extended for an additional period of two (2) weeks. (1957 Code, §9A-6; Ord. No. 3180, §1, 3-25-68)

Sec. 11-5-7. Penalty.

Any person violating any executive orders issued pursuant to this Chapter shall be punished as provided by Section 1-2-1 of this Code. (1957 Code, §9A-7; Ord. No. 3180, §1, 3-25-68)

CHAPTER 6

Regulated Business Practices

Sec. 11-6-1. Definitions.

(a) *Auctioneer* shall mean any person who sells, or offers to sell, any goods, wares or merchandise, or any personal property of any kind by public outcry to induce bidding, for his or her own gain or profit or for the account of any other person, or who shall advertise or in any other way hold himself or herself out as an auctioneer for public patronage, or shall receive fees or commissions for his or her services as auctioneer.

(b) *Auction house* shall mean any place of business where goods, wares, merchandise or chattels of any kind are regularly sold at auction. (1957 Code, §6-1)

Sec. 11-6-2. License, auctioneer's; required; term; fee; investigation; qualifications.

It shall be unlawful for any person to act as an auctioneer at any auction sale within the City without first securing a license therefor. Application for such license shall be made to the City Clerk who shall refer it to the City Manager for investigation, and it shall be issued only after approval by the City Manager. The applicant shall furnish such information and references as the City Manager shall require concerning his or her qualifications and character. The license fee shall be ten dollars ($10.00) a year for each year or fraction thereof. All licenses shall expire on June 30 next following the date of issuance. An applicant for an auctioneer's license must be a person of good moral character and over the age of twenty-one (21) years. (1957 Code, §6-2)

Sec. 11-6-3. Auction house; required; term; fee; investigation; qualifications.

(a) It shall be unlawful for any person to conduct or operate an auction house within the City without first securing a license therefor. Any person desiring such license shall make application therefor to the City Clerk who shall thereupon refer such application to a special committee for its investigation and approval. The membership of this committee shall consist of the following City officials: the City Manager, the Chief of Police and the City Clerk. This committee shall make full investigation as to an applicant's (or if a corporation, its officers') qualifications and fitness to conduct

and operate such business in an ethical and legitimate manner and consistent with the public interest. The committee shall have authority to require the applicant (or if the applicant is a corporation, its officers) to furnish character references, evidence of prior transactions either in the City or elsewhere, and such other information deemed necessary to properly determine the applicant's eligibility for a license; and if the applicant (or its officer if a corporation) shall refuse or fail to cooperate with such committee and to furnish such information and documents as requested by the committee, the application shall forthwith be denied, and any application shall be denied after investigation unless it affirmatively appears to the committee that the applicant (or its officers if a corporation) possesses all qualifications necessary to properly conduct such business.

(b) The license fee to operate an auction house within the City shall be one hundred fifty dollars ($150.00) for each year or fraction thereof and all licenses issued hereunder shall expire on June 30 next following the issuance of same. Once issued, all auction house licenses shall be renewable each year without additional investigation; provided, however, that the aforesaid committee may at any time, in its discretion, refuse to renew any auction house license pending a further investigation, and shall do so upon complaint being made; and provided, further, that the committee shall have power to suspend or revoke any auction house license for cause. (1957 Code, §6-3)

Sec. 11-6-4. Revocation; suspension.

Any license issued hereunder shall be revoked, after notice and hearing, by the City Manager or committee if:

(1) Any material statement in the application for the license shall be untrue;

(2) In case of any fraudulent act or neglect of the holder of the license causing injury to any person; or

(3) In case of any violation of this Chapter by the holder of the license; or in lieu of revocation, the license may be suspended by the City Manager or committee if the violation is of a minor nature and not intentional. (1957 Code, §6-4)

Sec. 11-6-5. Bond required; amount; conditions; maintaining.

Any applicant for an auction house license shall, at or before approval and issuance of the same, file with the City Clerk a bond in the sum of five thousand dollars ($5,000.00) payable to the City for the use and benefit of each purchaser at auctions thereafter conducted and supervised by such auction house during the terms of such licenses. Such bond shall be conditioned for the full and prompt payment by the applicant of all damages, loss, costs and attorney fees resulting to, sustained by or accruing to the purchaser of any article at such auction by reason of any false representations of any material fact by any person conducting or aiding in conducting any auction under such auction house license, or which shall accrue or be incurred by reason of any violation of any of the provisions of this Chapter. Such bond shall be duly executed by the applicant and by a surety company duly authorized to do business in the State, or in lieu of such surety company, by two (2) owners of real property, the real property of each owner being of the value of twice the amount of such bond. Such bond shall recite that it is executed pursuant to this Chapter and shall be in form approved by the City Manager. Such bond or undertaking shall also provide that the sureties may be sued directly either by the City or by any person injured as aforesaid without joining the auction house in such suit. Such bonds or

undertakings shall be continuing and shall cover not only the original period of the auctioneer's license but also the period of any subsequent renewals of such license. A new bond or undertaking may be required in the case of death or insolvency of any surety thereon. Such undertaking or bond shall contain an endorsement requiring fifteen (15) days' written notice to the City Manager in the event of the cancellation thereof. The auction house license shall become forfeited if the bond is cancelled without substitution of a new one. (1957 Code, §6-5)

Sec. 11-6-6. Sale; places conducted; auction house responsibility.

No auction sale shall be conducted within the City unless it is conducted by an auctioneer duly licensed hereunder and is held within the premises of an auction house duly licensed hereunder; provided, however, that an auction sale may be held elsewhere within the City if it is conducted by an auctioneer, licensed as aforesaid, and is also conducted under the supervision and authority of a duly licensed auction house which thereby accepts full responsibility for the proper conduct of the same. (1957 Code, §6-6)

Sec. 11-6-7. Permit; when required; application; information; inventory.

Any auction house desiring to sell at public auction within the City any of the articles mentioned in Subsection 11-6-8(10) shall first make and file with the City Clerk an application in writing, in form approved by the City Manager, for a special permit to hold such public auction, which application shall state:

(1) If a person, the name and place of residence and place of business of the applicant; if a corporation, the name and place of residence and place of business of such corporation and the names and places of residence of the officers of such corporation; if a partnership, the name and place of residence and place of business of such partnership, and the name and places of residence of all of the members of such partnership;

(2) The place where the proposed auction is to be held, giving the number and street of such place.

(3) The date when such auction is to begin and the number of days the applicant proposes to continue such auction.

(4) If the applicant has conducted or aided in or caused any such auction sale to be held at any place within or without the City within two (2) years next prior to such application, the application must also state the time when and the place where such previous sale or sales were held by him or her.

(5) The applicant in such application shall furnish such other information as the City Manager may deem necessary and demand, in order to enable him or her to investigate and verify the truth of the statements contained in such application or in the inventory hereinafter provided for.

a. Attached to such application the applicant shall file an inventory of all articles proposed to be sold by him or her at such auction, which inventory shall set out and describe the quality, quantity and kind or grade of each item thereof and the invoiced cost of each item. To such inventory there shall be attached an affidavit that the inventory is in all respects true and

correct. When the applicant is an individual, the affidavit shall be made by him or her; when a copartnership, the affidavit shall be made by one (1) of the partners; and when the applicant is a corporation, the affidavit shall be made by its president, general manager, secretary or treasurer.

b. Such application, inventory and affidavit shall be kept on file in the office of the City Clerk and shall be open to inspection at any time during the business hours of each day by the purchaser of any article at such auction or by the City Manager or Chief of Police.

c. No article of property mentioned in Subsection 11-6-8(10) shall be sold or offered for sale at any auction for which a special permit shall be granted unless it shall be included and described in the inventory. No charge shall be made for such permit; provided, however, that it shall be unlawful to conduct such sale without first obtaining such permit. (1957 Code, §6-7)

Sec. 11-6-8. Prohibited practices.

It shall be unlawful:

(1) For any person not possessing the qualifications required of an applicant to in any manner participate in or assist in conducting an auction;

(2) For any licensee to conduct an auction except between the hours of 8:00 a.m. and 11:00 p.m.;

(3) For any auctioneer to sell prize packages at any auction or dispose of any article or thing in any form by chance;

(4) For any auctioneer or auction house to fail to make available for inspection by one interested in bidding thereon all lots of goods, wares, merchandise or personal property to be offered for sale at auction;

(5) For any auctioneer knowingly to misrepresent the quantity or quality of any goods, wares, merchandise or personal property which he or she may sell or offer for sale;

(6) For any auctioneer directly or indirectly to engage, employ or knowingly permit any person to make fictitious bids or act as an "encourager" or "capper" to induce bona fide bidders to bid or to increase their bids on any lot or items which may be offered for sale;

(7) To conduct any auction sale except for the purpose of disposing of such goods, wares, merchandise, personal or real property to the highest bidder unless terms otherwise or to the contrary are publicly announced immediately before beginning the sale;

(8) To offer any item in unusual lots for the purpose of restricting bidders, except with the written permission of the owner of such goods;

(9) To conduct any auction sale upon any public street or alley in the City;

(10) At any such auction sale, to sell or offer for sale any clocks, gold, sterling or silver-plated ware; china, porcelain, antique furniture, pictures, paintings, bric-a-brac, rugs, furs, laces or linens without first making application for and obtaining the permit herein provided, and without complying in full with all the provisions of this Chapter, and any sale of the aforesaid articles is restricted to the stock on hand of any bona fide wholesale or retail dealers engaged in handling such items except where such items are offered and sold as incidental to the sale of lots of used household furnishings, clothing and wearing apparel;

(11) To sell at auction any watches, diamonds, jewelry or silverware except where such items are offered and sold as incidentals to the sale of lots of used household furnishings, clothing and wearing apparel, or under court order. (1957 Code, §6-8)

Sec. 11-6-9. Registry required; information; special record.

(a) Every person engaged in the business of conducting an auction house or conducting sales for an auction house shall keep a permanent bound book or register containing an itemized list of all articles or lots which such person or such auction house may sell at any auction including the name of the owner or for whom or for whose account they were sold, the selling price and the date of the sale. Such book or register shall be kept current and shall be available for inspection by any duly authorized representative of the City or the State at reasonable hours.

(b) All auction houses shall also keep a special record of certain specified articles on cards furnished by the Chief of Police in the manner and form as specified by the Chief of Police. (1957 Code, §6-9)

Sec. 11-6-10. Exemptions; permits.

The provisions of this Chapter shall not apply to sales made by public officials under authority of statutes or to auction sales of 4-H clubs or charitable organizations; provided, however, that the latter two (2) groups shall first obtain a permit from the City Manager for any auction conducted by them within the City. (1957 Code, §6-10)

CHAPTER 7

Lost or Abandoned Property

Sec. 11-7-1. Custodian; appointment; duties; sale of perishables.

(a) Appointment. The Chief of Police shall appoint, according to law, an employee of the Police Department to act as custodian of all property seized or taken by the police.

(b) Title. The person so appointed shall be designated and known as the custodian of unclaimed property.

(c) Records. It shall be the duty of such custodian to keep a record of all property which may be seized or otherwise taken possession of by the Police Department.

(d) Sale. If such property so seized or taken possession of shall not be claimed by the rightful owner thereof and possession surrendered to such owner, such property, excluding guns, shall be disposed of as provided by this Chapter; provided that if any property so seized or taken possession of by the Police Department shall be of a perishable nature or so bulky or of such a nature as to make it dangerous or inadvisable to retain possession thereof for the length of time herein specified, the custodian, upon certifying such fact to the City Manager, setting forth his or her reasons why such property should not be retained for the period fixed herein before selling the same, may, with the approval of the City Manager, cause such property to be forthwith advertised once in the official newspaper, and sell such property at public auction at any time after three (3) days shall have elapsed from the seizure or taking possession thereof. Nothing in this Section shall be held to require the custodian to take possession of, or make a disposition of, any lost or stolen property, the disposition or possession of which is otherwise provided for in this Code or by ordinance. (1957 Code, §21-6; Ord. No. 3791, 11-26-73; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-2. Place for safekeeping.

It shall be the duty of the City Manager to provide for the custodian of unclaimed property a suitable place for the safekeeping of such lost or stolen property recovered by any officer, and the same shall be under his or her entire control. (1957 Code, §21-7; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-3. Delivery to owner.

In case any lost or stolen property shall come into the custody of the custodian of unclaimed property and the same shall be claimed by any person, 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 shall be satisfied that such property belongs to the person claiming the same, he or she is hereby authorized to direct the custodian to deliver such property to him or her upon his or her giving a proper receipt therefor. (1957 Code, §21-8; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-4. Annual report; contents.

It shall be the duty of the Chief of Police to make a report to the City Manager at least once during each and every year, at a date to be determined by the Chief of Police, which report shall show all of the stolen or lost property which has come into the hands of the custodian of unclaimed property during the preceding year, and also all of such property which has been turned over to any person claiming the same, to whom the same was delivered, and the date when the same was so turned over. Such report shall also show the date when each and every article of such property was received by the custodian, and shall also show whether or not any person has made claim to any of such property which has been turned over to him or her by the custodian and by whom such claim was made, and what article or articles he or she claimed and when the claim was made. (1957 Code, §21-9; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-5. Final public notice.

(a) As soon as practicable after such report shall be received by the City Manager from the Chief of Police, the City Clerk shall prepare a notice, which notice shall be published in an official paper

published in the City on two (2) different occasions, which notice shall be directed to the public and shall contain a statement of the following matters:

(1) A general description of the property which is in the hands of the custodian of unclaimed property and which has remained unclaimed for a period of ninety (90) days prior to the filing of the report identified in Section 11-7-4 above;

(2) A statement that a detailed list of such property is available for inspection at the office of the custodian of unclaimed property, including the address and the hours during which such list may be inspected; and

(3) A statement that such property will be deemed abandoned and become the property of the City and disposed of by the City unless the owner reclaims the property within ten (10) days after the last publication of the notice.

(b) If no person establishes a right to such property by the expiration of the time period set forth in the notice, the property shall escheat to the City, become the sole property of the City and any claim of the owner to such property shall be deemed forever extinguished and forfeited. (1957 Code, §21-10; Ord. No. 3791, 11-26-73; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-6. Claim to property; notice to Director of Finance.

In case any person shall make claim to any of such property mentioned in the notice to the City Manager, it shall be the duty of the City Manager to notify at once the Director of Finance of such claim and the disposition made of the property claimed. (1957 Code, §21-11; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-7. Distribution to charity.

The Director of Finance is hereby authorized to donate any and all property unclaimed as aforesaid, at any time, to local organizations which by written petition have shown that such property will be distributed by such organization to the needy or deserving citizenry of the City. (1957 Code, §21-12; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-8. Unclaimed property; disposition by sale or otherwise; proceeds.

(a) All unclaimed property, except guns, which has escheated to the City pursuant to Section 11-7-5 above shall be disposed of as follows:

(1) Any such property which is of use or benefit to the City or any department of the City shall be delivered to the Purchasing Agent;

(2) All remaining property shall be sold at the discretion of the Director of Finance in either of the following two (2) ways:

a. The property will be sold at public auction by the Director of Finance for the highest and best price the same will bring in cash or certified funds; or

b. The property will be sold under consignment pursuant to contract with a third party consignee and approved by the City Council. The third party consignee shall be nationally or regionally recognized and shall be required to list the property and use its best effort to sell the property by auction to the public on the Worldwide Web of the Internet.

(b) The manner of auction sale held pursuant to Subsection 11-7-8(a)(2)a shall be as follows:

(1) First, the articles shall be offered in lots as small as practicable in order to afford individuals the opportunity to bid thereon;

(2) Second, all articles that are not thus disposed of shall be offered in wholesale lots; and

(3) Third, any articles then remaining shall be returned to the City Manager who may give such remaining articles to charitable organizations or have them destroyed, saved or retained for the City's use, at his or her discretion.

(c) It shall be the duty of the Director of Finance to make an annual report to the City Manager, giving in detail a description of the articles disposed of pursuant to this Section and the amount of money received for each of the articles. Such money shall be placed in the general fund. (1957 Code, §21-13; Ord. No. 3791, 11-26-73; Ord. No. 5979, 7-10-95; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-9. Sale of guns prohibited; confiscation, destruction.

(a) The sale of guns under this Chapter is hereby prohibited.

(b) All guns seized or taken possession of by the Police Department shall be disposed of as follows:

(1) Any gun which is determined by the custodian of unclaimed property and the Chief of Police to be of beneficial use to the Police Department shall be made part of its weapon inventory.

(2) All other guns shall be destroyed by melting said guns in a smeltery, said smelting to be witnessed by the custodian of unclaimed property and a member of the Finance Department.

(c) When such disposition is completed, it shall be the duty of the custodian of unclaimed property to make a report to the Chief of Police, giving in detail a description of the guns placed in Police Department inventory or destroyed by smelting. (Ord. No. 3791, 11-26-73; Ord. No. 7121 §1, 4-12-04)

Sec. 11-7-10. Applicability.

This Chapter shall apply only to unclaimed personal property coming into the hands of the custodian of unclaimed property as provided herein, and shall not apply to money, funds, certificates of deposit, negotiable instruments, intangible property or other property subject to the provisions of Chapter 10 of Title XIV of this Code, nor to any abandoned vehicles subject to Chapter 1 of Title XV of this Code and the Model Traffic Code for Colorado Municipalities, as adopted and amended by Title XV of this Code. (Ord. No. 5979, 7-10-95; Ord. No. 7121 §1, 4-12-04)

CHAPTER 8

Reserve Police Officers

Sec. 11-8-1. Establishment of police reserve.

There is hereby created the police reserve corps which shall consist of such number of persons as shall, from time to time, be determined by the Chief of Police. (Ord. No. 5794, 4-12-93)

Sec. 11-8-2. Appointment; compensation.

(a) The Chief of Police shall appoint all reserve police officers and may adopt rules and regulations concerning the functions and conduct of such reserve police officers.

(b) Reserve police officers shall serve as volunteers without compensation or other benefits; provided, however, that reserve police officers shall be deemed to be unclassified employees of the City for the sole purpose and within the meaning of Section 8-40-202(1)(a), C.R.S. (Ord. No. 5794, 4-12-93)

Sec. 11-8-3. Authority of police reserve officers.

(a) In case of need, the Chief of Police may call into duty any or all of said reserve police officers. Such reserve police officers shall be empowered to act only while on duty and the authority of said reserve police officers shall be governed by the provisions of Sections 18-1-901(3)(l)(IV.5), 16-3-201 and 16-3-202, C.R.S.

(b) Reserve police officers shall act only at the express direction or under the direct supervision of a regular full-time police officer in accordance with the requirements of law applicable to reserve police officers, including those set forth in Section 18-1-901(3)(l)(IV.5), C.R.S. (Ord. No. 5794, 4-12-93)

Sec. 11-8-4. Oath of office.

Before becoming a member of the police reserve corps, each reserve police officer shall take an oath to support the Constitution of the United States and the Constitution of the State, and to lawfully and faithfully perform the duties and assignments of a reserve police officer. (Ord. No. 5794, 4-12-93)

Sec. 11-8-5. Observance of regulations.

Reserve police officers shall observe all applicable Police Department rules and regulations and all special rules and regulations adopted concerning reserve police. Reserve police officers shall be subject to discipline or discharge from the police reserve corps for violation of any such rule or regulation, violation of federal, state or local law or any conduct deemed unbecoming a member of the police reserve corps. (Ord. No. 5794, 4-12-93)

Sec. 11-8-6. Resignation and removal.

Any reserve police officer may resign upon forty-eight (48) hours' prior written notice to the Chief of Police. The Chief of Police may remove any reserve police officer at any time without cause, without notice and without appeal. (Ord. No. 5794, 4-12-93)

Sec. 11-8-7. Uniforms and equipment.

(a) The uniform and equipment to be worn by reserve police officers while on duty shall be determined by the Chief of Police and shall be readily distinguishable from the uniform worn by regular police officers.

(b) Each reserve police officer shall purchase and maintain, at his or her own expense, the official uniform and equipment required for reserve police officers. Such uniform and equipment shall be worn by each reserve police officer only while on duty and while commuting to and from the Police Department or duty assignment. All badges, patches and identification cards, whether purchased by the City or the reserve police officer, shall be and remain the property of the City. (Ord. No. 5794, 4-12-93)

Sec. 11-8-8. Firearms restricted; training.

(a) Reserve police officers may not carry or use a firearm unless each of the following requirements are satisfied:

(1) The reserve police officer has been trained in firearm use and safety and has been certified for firearms proficiency with the same frequency and subject to the same requirements as regular peace officers;

(2) The Chief of Police has expressly authorized the reserve police officer to carry and use a firearm while on duty;

(3) The reserve police officer has been called into duty and is carrying the firearm while on duty in the manner prescribed by police regulations.

(b) Reserve police officers shall not carry a concealed firearm or other concealed weapon at any time when not on duty; nor shall any reserve police officer carry a concealed firearm or other concealed weapon while on duty unless specifically authorized in writing by the Chief of Police to do so.

(c) Before a reserve police officer may be called into duty, he or she must have received task-specific training that meets standards approved by the peace officers standards and training board, in accordance with the provisions of Sections 18-1-901(3)(l)(IV.5) and 24-31-303, C.R.S.

(d) Any violation of paragraph (b) of this Section shall be a Class 1 municipal offense punishable as provided in Section 11-1-103 of this Title. (Ord. No. 5794, 4-12-93)

CHAPTER 9

Graffiti

Sec. 11-9-1. Purpose and intent.

(a) The City Council finds and determines that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Graffiti promotes blight in the neighborhoods in which it occurs and encourages similar acts of vandalism. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain. Without prompt and immediate removal of graffiti, other properties become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City and its citizens.

(b) The City Council further finds and declares that, to be truly effective in the deterrence, eradication and removal of graffiti, it is necessary to implement a comprehensive anti-graffiti ordinance. (Ord. No. 6236, 8-25-97)

Sec. 11-9-2. Definitions

(a) *Aerosol paint container* means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

(b) *Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (¼) of an inch, containing ink or other pigmented liquid that is not water soluble.

(c) *Etching equipment* means any tool, device or substance that can be used to make permanent marks on any natural or man-made surface.

(d) *Graffiti* means any unauthorized inscription, word, figure, painting or other marking that is written, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent the graffiti was not authorized in advance by the owners or occupants of the property or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

(e) *Graffiti implement* means an aerosol paint container, broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

(f) *Minor* means any person under the age of eighteen (18) years.

(g) *Paint stick* or *graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth ($^{1}/_{8}$) of an inch in width.

(h) *Person* means any individual, partnership, association, corporation, limited liability company, personal representative, receiver, trustee, assignee or any other legal entity.

(i) *Responsible party* means a person other than the owner of property who has primary responsibility for control of the property or for repair or maintenance of the property. (Ord. No. 6236, 8-25-97)

Sec. 11-9-3. Prohibited acts.

(a) Graffiti. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any City-owned property or on any nicety-owned property. It shall be an affirmative defense to a violation of this Subsection (a) that the graffiti was applied with the permission of the owner or occupant on any nicety-owned property.

(b) Possession. It shall be unlawful for any minor to buy or carry on his or her person any graffiti implement. It shall be an affirmative defense to a violation of this Subsection (b) that the minor was carrying or possessing the graffiti implement with the consent of the minor's parent, guardian or school teacher, or that the minor was using or applying any graffiti implement under the direct supervision of such minor's parent, guardian or school teacher. (Ord. No. 6236, 8-25-97)

Sec. 11-9-4. Prohibition on display and sale.

(a) Sale. It shall be unlawful for any person, other than a parent, legal guardian or school teacher, to sell, exchange, give, loan or otherwise furnish, or cause or permit to be exchanged, given, loaned or otherwise furnished, any aerosol paint container, broad-tipped marker or paint stick to any minor without the written consent of the parents or guardian of the minor.

(b) Display and storage.

(1) Every person who owns, conducts, operates or maintains a retail commercial establishment selling aerosol paint containers, paint sticks or broad-tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.

(2) In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks and markers in an area not accessible to the public in the regular course of business without employee assistance.

(c) Required sign. Every person who operates a retail commercial establishment selling graffiti implements shall:

(1) Place a sign with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with lettering of at least one-half (½) inch in height which is in clear public view at or near the display of such products and which states: "WARNING: IT IS ILLEGAL TO SELL OR DISTRIBUTE AEROSOL PAINT, PAINT STICKS OR BROAD-TIPPED MARKERS TO ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS OR FOR ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE SAME. IT IS ILLEGAL IF YOU ARE OVER EIGHTEEN YEARS OF AGE FOR YOU TO PURCHASE AEROSOL PAINT, PAINT STICKS OR BROAD-TIPPED MARKERS FOR A

PERSON UNDER EIGHTEEN YEARS OF AGE IF YOU ARE NOT SUCH PERSON'S PARENT OR GUARDIAN. FINES OF UP TO $1,000.00 MAY BE IMPOSED FOR VIOLATION OF THESE PROVISIONS." (Ord. No. 6236, 8-25-97; Ord. 7937 §23, 12-8-08)

Sec. 11-9-5. Penalty.

(a) Any violation of Subsection 11-9-3(a) of this Chapter is a Class 1 municipal offense, provided that, if the person was under eighteen (18) years of age on the date of violation, the court shall not impose a jail sentence. Any person found guilty of violating Subsection 11-9-3(a) shall, in addition to any sentence of jail time, pay a fine of not less than one hundred dollars ($100.00) for the first offense, two hundred dollars ($200.00) for the second offense and five hundred dollars ($500.00) for the third or any subsequent offense.

(b) Any violation of any provision other than Subsection 11-9-3(a) of this Chapter is a Class 2 municipal offense.

(c) Restitution. In addition to any punishment imposed for violation of Section 11-9-3(a) of this Chapter, the court shall order any violator to make restitution to the victim for damages or loss caused by the violator's offense in the amount or manner determined by the court. In the case of an unemancipated minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make restitution, but such liability shall not exceed the damages set forth in Section 13-21-107(1), C.R.S.

(1) Within ten (10) days after entry of any order for restitution any persons ordered to pay such restitution may file written objections to the amount of restitution including evidence that the amount of restitution exceeds the damages or loss caused by the violator's offense. The court may, based upon such objections and evidence or after hearing at the court's discretion, reduce the amount of restitution.

(2) Upon an application and finding of indigence, the court may decline to order restitution.

(d) Seizure of graffiti implement. The Chief of Police or his or her authorized agent may seize, take and remove any graffiti implement used in violation of Section 11-9-3(a) of this Chapter or in the possession of a minor in violation of Section 11-9-3(b) of this Chapter.

(e) Community service. In lieu of, or as part of, any punishment imposed for violation of either Section 11-9-3(a) or (b) of this Chapter, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:

(1) The minor or adult shall perform at least thirty (30) hours of community service.

(2) At least one (1) parent or guardian of the unemancipated minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

(3) The entire period of community service shall be performed under the supervision of a community service provider approved by the Chief of Police.

(4) Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

(5) In addition to the penalties provided herein, any person convicted of violating Section 11-9-3 or 11-9-4 of this Chapter shall be assessed a surcharge for each count of such conviction, to be known as the Keep Pueblo Beautiful Surcharge, in the amount of twenty-five dollars ($25.00). In the case of an unemancipated minor, the parents or guardians of the minor shall be jointly and severally liable for this surcharge and shall be ordered to pay the same. This surcharge may only be waived by the Court upon a bona fide finding that the defendant is indigent, or in the case of a minor, that the minor's parents or guardians are indigent. This surcharge shall be collected by the Municipal Court and paid into the City's general fund. (Ord. No. 6236, 8-25-97; Ord. No. 7937 §24, 12-8-08; Ord. No. 8194 §6, 5-10-10)

Sec. 11-9-6. Rewards and reimbursements for information.

(a) The City may offer a reward in an amount to be established by resolution of the City Council for information leading to the identification and conviction of any person who violated Subsection 11-9-3(a) of this Chapter. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it shall deem appropriate.

(b) Claims for rewards under this Section shall be filed with the Chief of Police.

(c) No claim for a reward shall be allowed unless the City investigates and verifies the accuracy of the claim and determines that the requirements of Section 11-9-6 of this Chapter have been satisfied. (Ord. No. 6236, 8-25-97)

Sec. 11-9-7. Graffiti as nuisance.

(a) The existence of graffiti on public or private property in violation of this Chapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Chapter.

(b) It is the duty of both the owner and responsible party of property to which graffiti has been applied to at all times keep the property clear of graffiti. (Ord. No. 6236, 8-25-97)

Sec. 11-9-8. Removal of graffiti.

(a) Property owner responsibility. It is unlawful and a Class 2 municipal offense for the owner or responsible party of property upon which graffiti exists or has been applied in the City to permit such graffiti to remain for a period of ten (10) days after service by certified mail or posting of notice of the graffiti. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the findings;

(3) A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated, or an appeal filed within that time, the property will be declared to be a public nuisance. Thereafter, the City may enter upon the property, cause the removal of the graffiti by painting over in such color as shall meet with the approval of the City Manager, or the designee of the City Manager, or such other abatement as deemed appropriate subject to the abatement procedures contained within Subsection 11-9-8(f) of this Chapter; and

(4) An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

(b) Service of notice. For purposes of this Chapter, notice shall be deemed received upon the date signed on the return receipt, upon receipt of the return receipt or certified letter marked refused or unclaimed, or ten (10) days after notice has been posted on the property.

(c) Exceptions to responsibility. The removal requirements of Subsection 11-9-8(a) of this Chapter shall not apply if the property owner or responsible party can demonstrate that the property owner or responsible party lacks the financial ability to remove the graffiti.

(d) Right to appeal.

(1) Notice of appeal. Within ten (10) days after receipt of the notice, a property owner or responsible party may file a written appeal with the City Manager or the designee of the City Manager, setting forth the reasons why the property does not constitute a public nuisance and any defenses the property owner or responsible party may have for failure to remove the graffiti pursuant to the notice. Untimely appeals will not be considered.

(2) Hearing. The City Manager or the designee of the City Manager shall hold and appeal hearing within ten (10) days of the filing of a notice of appeal by the property owner or responsible party. At the hearing, the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance and any defenses the property owner or responsible party may have for failure to remove the graffiti.

(3) Determination of Hearing Officer. The determination of the Hearing Officer after the hearing shall be final and not appealable. If, after the hearing, regardless of the attendance of the owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give a written order to the owner or responsible party at the time of the hearing, or if the owner or responsible party does not appear, by mailing a copy of the written order by U.S. mail postage pre-paid to the address provided by the owner or responsible party in the notice of appeal, that, unless the graffiti is removed within seven (7) days of the date of the written order, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other abatement thereof as the Hearing Officer determines appropriate.

(e) Right of City to remove.

(1) Use of public funds. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public

place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Manager, or the designee of the City Manager, determines in writing that more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

(2) Right of entry on private property. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal, the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the graffiti within the time specified by this Chapter, or if the City has requested consent to remove or paint over the graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Chapter, and the property owner has failed to file an appeal with the City Manager or the appeal has been denied by the Hearing Officer, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

(f) Abatement and cost recovery proceedings.

(1) Abatement. Not sooner than ten (10) days after receipt of the Notice or the time specified in the written order of the Hearing Officer, the City Manager, or the designee of the City Manager, shall cause the graffiti to be abated and shall provide an accounting to the owner and the responsible party of the costs of such abatement.

(2) Lien. If all or any portion of the cost of such abatement remains unpaid after thirty (30) days, the amount thereof shall be charged against the owner of the property that was the subject of the abatement effort and be considered an unpaid debt owed to the City. Upon recording in the office of the County Clerk and Recorder of a statement under oath of the City Manager showing the amount of the unpaid cost of such abatement and describing the property, the unpaid cost of such abatement plus interest at the rate of ten percent (10%) per annum from the date such costs were incurred, shall be and constitute a perpetual lien on the property having priority over all other liens and encumbrances except general ad valorem tax liens, and such lien shall remain in full force and effect until paid in full. Filing of such lien shall not be an exclusive remedy. The City may pursue any other remedies provided for in law or equity by the laws of the State of Colorado, City Charter or Municipal Code for collection of a debt owed to the City. (Ord. No. 6236, 8-25-97; Ord. No. 8608 §1, 7-8-13)

Sec. 11-9-9. Local improvement fund.

The City Council hereby creates the City of Pueblo Anti-Graffiti Local Improvement Fund. Penalties assessed against violators of this Chapter shall be placed in the Fund, along with any monetary donations received from persons wishing to contribute to the Fund. The Council shall direct the expenditures of monies in the Fund. Such expenditures, in discretion of the City Council, may be appropriated to the payment of the cost of graffiti removal, the payment of records for information leading to the conviction of violation of this Chapter, the costs of administering this Chapter and such other purposes as the Council may determine. (Ord. No. 6236, 8-25-97)

Sec. 11-9-10. Severability.

Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter. (Ord. No. 6236, 8-25-97)

CHAPTER 10

Medical Marijuana

Article *I*
General

Sec. 11-10-101. Findings and purpose.

City Council finds that the cultivation, possession, sale and use of medical marijuana may be harmful to public health, safety and welfare if not carefully regulated. This Chapter is designed to protect public health, safety and welfare from the potential adverse effects of medical marijuana, while permitting medical marijuana to be cultivated, possessed, sold and used in accordance with law. City Council further finds and declares that the subject matter of this Chapter is a matter of local and municipal interest. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-102. Incorporation of general licensing provisions.

The provisions of Chapter 1, Title IX, Pueblo Municipal Code, shall apply to this Chapter except where they may be inconsistent with the provisions of this Chapter. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-103. Definitions.

The following definitions shall apply throughout this Chapter:

(1) The definitions contained in Article XVIII, Section 14, Colorado Constitution and Section 12-43.3-104, C.R.S., shall apply to this Chapter except where the ordinance provides a different definition or the context of this Chapter makes it clear that the statutory or constitutional definition does not apply.

(2) *Adjacent grounds:* means all areas that the licensee has a right to possess by virtue of his or her ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers and security devices.

(3) *Approve a license:* means to find that the requirements for a license have been met, but does not give the applicant the right to operate a medical marijuana facility until the license is issued.

(4) *Authority:* means the Pueblo Medical Marijuana Licensing Authority, which may be either an individual hearing officer or a Board.

(5) *Character and record:* includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses or medical marijuana licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager or employee; education, training, experience, civil judgments, truthfulness, honesty and financial responsibility. The conviction of any person for any offense shall not, in itself, be grounds for a finding of bad character and record if such person demonstrates that he or she has been rehabilitated, but rehabilitation shall not be considered if a provision in this Chapter declares that the offense is a per se disqualification.

(6) *Complaint:* means a document filed with the Authority by the City, any of its Departments or the Authority itself, seeking sanctions against a medical marijuana license.

(7) *Contiguous:* means located within the same building as the medical marijuana center, located in a separate building on the same parcel of land as the medical marijuana center, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the medical marijuana center is located.

(8) *Creditor:* means any person lending, paying or providing funds, directly or indirectly, to pay any part of the costs of: (a) operating the medical marijuana facility, including but not limited to the costs of rent, mortgage payments, utilities, debt payments, supplies, product, equipment, advertising, vehicles, salary and wages; or (b) purchasing an ownership interest, in any form, in the licensee business.

(9) *Employee:* means the licensee's or proposed licensee's employees.

(10) *Harm* or *harmful to public health, safety or welfare:* means any matter that adversely affects the health, safety or welfare of any person or group of persons within the City of Pueblo or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, loitering, litter, parking and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, processing, smoking or ingestion of medical marijuana and medical marijuana infused products, when performed lawfully, shall not in itself be considered harmful to public health, safety and welfare.

(11) *In public:* means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds. The term includes persons in motor vehicles located in a public place.

(12) *Issue a license* means to finalize the license after a previous approval of the license, and may or may not occur after approval of the license, depending on any completions, inspections, approvals or conditions that the Authority may require to be satisfied before issuance. Issuance

gives the licensee the right to operate a medical marijuana facility, provided that the licensee also obtains a State license.

(13) *Licensee:* means the person or entity holding a medical marijuana license under this Chapter.

(14) *Licensed premises:* means the area inside a building in which the cultivation, manufacture, processing, infusion, possession, weighing, display, packaging, sale and exchange of medical marijuana or marijuana infused products is licensed under this Chapter.

(15) *Marijuana* or *medical marijuana*: except where the context clearly indicates otherwise, means growing marijuana plants, harvested marijuana in any state and medical marijuana infused products of all kinds.

(16) *Medical marijuana facility:* means a medical marijuana center, an optional premises cultivation operation or a medical marijuana infused products manufacturing operation.

(17) *Medical marijuana license:* means any of the licenses described in Section 11-10-302, Pueblo Municipal Code.

(18) *Medical marijuana card:* means any medical marijuana registration card issued to any patient or primary caregiver by the State of Colorado.

(19) *Operate* or *operation:* means the matters described in Section 11-10-307(a)(3) and (a)(4), Pueblo Municipal Code.

(20) *Patient:* means a person with a debilitating medical condition who has received a recommendation from a licensed physician to use medical marijuana and who has received a medical marijuana card from the State.

(21) *Permit:* when used as a verb means to:

a. Participate in or contribute to an act, conduct or omission;

b. Consent to or condone an act, conduct or omission;

c. Know or have reason to know that an act, conduct or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take reasonable steps to halt, thwart or prevent the same; or

d. Ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.

(22) *Person:* means any natural person and any entity.

(23) *Principal:* means:

a. In the case of any entity, including any general or limited partnership, corporation, limited liability company or other entity: any person who has a 5% or greater interest in the ownership of the entity, and any person who has the day to day authority to or actually does manage the entity's finances.

b. In the case of a corporation: the persons described for any entity in Subsection (w)(1) of this Section and the president, vice-president, secretary, chief executive officer, chief financial officer and any person who holds 5% or more of the capital stock of the corporation.

c. In the case of a limited liability company: the persons described for any entity in Subsection (w)(1) of this Section and any member of the limited liability company.

d. In the case of a sole proprietorship, the individual owner.

(24) *Serious traffic offense:* means any driving offense carrying eight points or more under Section 42-2-127, C.R.S., or the substantial equivalent of such offense in any other State. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §1, 9-27-10)

Sec. 11-10-104. Time.

In calculating any period of time prescribed or allowed under this Chapter, the day of the act or event 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, even if it is a Saturday, Sunday or legal holiday, unless the prescribed time period is ten (10) days or less. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-105. Certain confidential matters not public records.

(a) The following matters contained in the files and records of the Authority and the City shall be confidential and shall not be public records:

(1) The records described in Section 11-10-319, Pueblo Municipal Code;

(2) The results of the inspection of books, records and audits conducted under Section 11-10-320, Pueblo Municipal Code;

(3) The results of inspections conducted under Section 11-10-321, Pueblo Municipal Code;

(4) Responses to requests for information made under Section 11-10-322, Pueblo Municipal Code;

(5) The names of patients and primary caregivers and any record of the products they order or purchase from licensees.

(b) The confidentiality of the matters described in Subsection (a) of this Section shall not prevent any City or State employee from accessing and reviewing such records if necessary or desirable as part of their assigned duties. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8369 §1, 7-11-11)

Sec. 11-10-106. No private duties, cause of action or remedies.

Nothing contained in this Chapter shall be construed as creating, directly or indirectly, any duty between private persons, a private cause of action or any private legal remedy. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-107. Construction and severability.

Any court of competent jurisdiction construing or applying this Chapter shall seek a saving construction and application that makes the provisions of this Chapter constitutional. In the event that any court of competent jurisdiction determines that any provision in this Chapter violates any constitutional right, despite the court's saving construction and application, the Court shall strike the offending provision only and sever the same from the remainder of this Chapter, which shall remain valid and effective. (Ord. No. 8244 §1, 7-26-10)

Article II
Medical Marijuana Licensing Authority

Sec. 11-10-201. Licensing authority.

(a) City Council may by resolution appoint as the Medical Marijuana Licensing Authority either an individual hearing officer or a Board.

(b) As to any application for a medical marijuana license submitted before May 1, 2012, the application shall be suspended and shall not be processed until May 1, 2012, or thereafter, but shall not be granted or approved before July 1, 2012. An application submitted between May 1, 2012, and July 1, 2012, may be processed, but shall not be granted or approved before July 1, 2012. Nothing contained in this Subsection shall be construed as infringing upon any of the constitutional rights granted under Article XVIII § Colorado Constitution. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8369 §2, 7-11-11)

Sec. 11-10-202. Members of Board.

(a) If City Council chooses to appoint a Board as the Authority, the Board shall consist of five (5) members, all of whom shall be residents of the City, to be appointed by the City Council by resolution. Four (4) members shall be initially appointed for staggered terms expiring on the first day of August as follows: one (1) member for a one-year term, one (1) member for a two-year term, one (1) member for a three-year term, and two (2) members for four-year terms, or in lieu of one (1) member for a four-year term, a member of the City Council may be appointed for an indefinite term. Thereafter, each member shall be appointed for a term of four (4) years. At the Board's first regular meeting and on the anniversary of the first meeting and each year thereafter, the Board shall appoint one (1) of its members to act as Chairman of the Board. The City Council shall make an appointment for any unexpired term in the event a vacancy arises.

(b) Any member of the Board may be removed by the City Council for nonattendance to duty or for cause. Any member who fails to attend three (3) consecutive meetings of the Board shall be

removed from the Board, unless the City Council excuses any such absences. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-203. Powers of Authority.

(a) The Authority shall have the following powers:

(1) To issue or deny medical marijuana licenses and renewals of the same within the City.

(2) To impose sanctions on any license issued by the Authority on its own motion or on complaint by the City for any violation by the licensee after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard.

(3) To issue approvals and disapprovals as provided in this Chapter.

(4) To conduct hearings, grant or deny motions, make findings and orders, administer oaths, and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which it is authorized to conduct.

(5) To control the mode, manner and order of all proceedings and hearings.

(6) To adopt rules, procedures and policies for its own proceedings.

(7) To adopt rules and policies for filing applications and requests.

(8) To adopt application forms and submission requirements, including a requirement that applications, complaints and other documents be filed in a digital format approved by the Authority and to refuse applications, complaints and other documents not filed in the approved digital format.

(9) To perform any act that the Authority is authorized to perform under this Chapter.

(10) To perform any other act that may be implied or necessary to carry out any act that the Authority is authorized to perform under this Chapter.

(b) In the event that any person, in the immediate presence of the Authority or within its sight or hearing, while the Authority is in session during a hearing, commits a direct contempt of the Authority by speech, gesture or conduct which disobeys a lawful order of the Authority, shows gross disrespect to the Authority tending to bring the Authority into public ridicule, or substantially interferes with the Authority's proceedings, the Authority may hold such person in contempt. Contemptuous conduct by any principal, registered manager or employee shall be imputed to the licensee.

(c) The Authority may impose the following sanctions for contempt:

(1) Removal of the person committing the contempt from the proceedings, the hearing room and its environs;

(2) Public censure, which shall be made a matter of the licensee's record and may be used as an aggravating factor in determining any fine, suspension or revocation;

(3) A prohibition against the individual or licensee introducing into the record testimony, documents, exhibits or other evidence;

(4) An order striking, disregarding and refusing to consider pleadings, applications, documents, objections, testimony, exhibits or other evidence or arguments already introduced by such person;

(5) A fine, enforced by suspension of the license until the fine is paid;

(6) Default of any motion, complaint or other action then pending against the licensee; or

(7) Denial of any application by the licensee then pending before the Authority. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-204. Quorum and majority vote.

If City Council appoints a Board to act as the Authority, a majority of the Board shall constitute a quorum for the conduct of its business. All decisions of the Board shall be by majority vote of the entire Board. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-205. Appeal of Authority decisions.

Actions taken by the Authority are subject to review by the Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Review must be applied for within thirty (30) days after the date of decision. Any person applying to the Court for review shall be required to pay the cost of preparing a transcript of proceedings before the Authority whenever such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Authority pursuant to the Court order. (Ord. No. 8244 §1, 7-26-10)

Article III
Licenses

Sec. 11-10-301. Licenses and permit required.

(a) No person shall operate a medical marijuana facility unless he or she has first obtained the following and maintains the same in full force and effect:

(1) A limited use permit from the City for the location of the proposed licensed premises;

(2) A City sales and use tax license;

(3) A State sales and use tax license;

(4) A City license for any other business activity that will be operated on the licensed premises;

(5) Ownership of, or a lease in effect on, the proposed licensed premises;

(6) A City license to operate any other business that will be conducted on the licensed premises;

(7) A City license to operate a medical marijuana facility; and

(8) A State license to operate a medical marijuana facility.

(b) No person may apply for a license to operate a medical marijuana facility until he or she has first met the requirements stated in (a)(1) through (6) of this Section. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-302. Classes of medical marijuana licenses.

The Authority may issue the following licenses for medical marijuana facilities, granting the privileges described in Title 12, Article 43.3, C.R.S., subject to the requirements, conditions, qualifications, and limitations set forth in this Chapter:

(1) Medical marijuana center license;

(2) Optional premises cultivation license; and

(3) Medical marijuana infused products manufacturing license. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-303. Nature of license.

(a) Every license issued under this Chapter confers only a limited and conditional privilege subject to the requirements, conditions, limitations and qualifications of this Chapter and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited or completely extinguished at the discretion of City Council or the electorate of the City, as provided in this Chapter, without any compensation to the licensee.

(b) Every license approved or issued under this Chapter shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the Local Option described in Section 12-43.3-106, C.R.S., and any other future ordinances adopted by a vote of the People of the City of Pueblo or City Council. Nothing contained in this Chapter grants to any licensee any vested right to continue operating under the provisions of this Chapter as they existed at the time the license was approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.

(c) In the event that the People of the City of Pueblo, by a majority of the registered electors of the City, at a regular or special election, or a majority of City Council, vote to prohibit by ordinance the licensing and operation of medical marijuana centers, optional premises cultivation operations or medical marijuana infused products manufacturing operations within the City of Pueblo, pursuant to Section 12-43.3-106, C.R.S., then every license issued or approved under this Chapter, which is

prohibited under such ordinance, shall be deemed void and the operation of any medical marijuana facility prohibited under the ordinance shall become illegal on the effective day of the ordinance.

(d) Every license is separate and distinct and is tied to a specific location with specific conditions. The license cannot be assigned, delegated, sold, inherited or otherwise transferred between persons or transferred to a different location, except as provided in this Chapter. No licensee shall exercise the privileges of any other license or delegate the privileges of its own license.

(e) The licenses issued under this Chapter consist of a limited and conditional privilege to operate a medical marijuana facility, provided that the licensee also obtains a State license. The license certificate issued by the Clerk of the Authority is merely evidence that a license was issued and is not the license itself. Assignment or conveyance of the license certificate alone does not transfer any right to the license. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-304. License and other fees.

(a) Applicants and licensees shall pay the following fees to the City of Pueblo in addition to any fees payable to the State:

(1) Application packet for new license (which shall be credited against the application fee if a complete application is submitted): twenty-five dollars ($25.00).

(2) Application for new license:

a. Medical marijuana center: three thousand four hundred seventy-two dollars ($3,472.00).

b. Marijuana infused products manufacturing operation: three thousand four hundred seventy-two dollars ($3,472.00).

c. Optional premises cultivation license (if submitted, accepted, processed and heard at the same time as an application for a medical marijuana center license or marijuana infused products manufacturing license): zero ($0.00).

d. Optional premises cultivation license (if not submitted, accepted, processed and heard at the same time as an application for a medical marijuana center license or marijuana infused products manufacturing license): three thousand four hundred seventy-two dollars ($3,472.00);

(3) Application for renewal of license: one thousand six hundred eighty-four dollars ($1,684.00).

(4) Application for transfer of location: one thousand seven hundred fifty dollars ($1,750.00).

(5) Application for change of principals or ownership: three hundred dollars ($300.00).

(6) Application for change in operational plan: three hundred dollars ($300.00).

(7) Registration of manager: one hundred dollars ($100.00).

(8) Application for modification of premises: four hundred dollars ($400.00).

(9) Report of minor change: one hundred dollars ($100.00).

(10) Late renewal fee: five hundred dollars ($500.00).

(11) License extension fee: one hundred fifty dollars ($150.00) for each thirty (30) day period or portion thereof.

(b) City Council may approve increases or decreases in the foregoing fees by resolution.

(c) In addition to the foregoing fees, applicants and licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, other licensing, registration, fingerprinting, approval or permitting required under the Pueblo Municipal Code, State law or State regulations.

(d) The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional City revenue.

(e) If any license or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked or otherwise sanctioned, no part of the fees paid therefor shall be refunded to the applicant or licensee. (Ord. No. 8244 §1, 7-26-10)

Editor's Note: Pursuant to Subsection 11-10-204(b), fees have been increased by Resolution No. 11964, passed on August 23, 2010.

Sec. 11-10-305. Term of license.

Every license shall be valid for one (1) year from the date it is issued unless the license is earlier revoked. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-306. Coordination with State Medical Marijuana Licensing Authority and State requirements.

(a) The Authority shall inform the State Medical Marijuana Licensing Authority of its investigations, inspections and all decisions approving new licenses, issuing new licenses, imposing conditions on licenses, renewing licenses, approving major changes in licenses, information regarding minor changes, and sanctions imposed on licenses.

(b) To the extent that such coordination is reasonably feasible and efficient, the Authority shall coordinate its investigations and actions with the State Department of Revenue, but the Authority reserves the right to act independently and to reach its own findings of fact, findings of law and conclusions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of licenses and any other matter related to licenses, without regard to the findings of fact, findings of law and conclusions that the State may reach regarding the same licenses based on the same incident or conduct.

(c) The approval or issuance of a license under this Chapter shall not constitute a representation by the Authority that the licensee is qualified for or will receive a State medical marijuana license. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §2, 9-27-10)

Sec. 11-10-307. Application for medical marijuana license.

(a) An applicant for a medical marijuana license shall submit to the Authority an application with the following information:

(1) Information required on the application forms prescribed by the State of Colorado;

(2) Information required on the application forms prescribed by the Authority, which may require any information, document or photograph relevant to any requirement for a license under State law or this Chapter, or relevant to any condition that may be imposed on the license; and

(3) An operational plan showing how the business, licensed premises and adjacent grounds will be operated, including but not limited to:

a. How and where marijuana or marijuana infused products will be cultivated, advertised, processed, stored, packaged, exhibited, purchased, exchanged and sold;

b. How the business, licensed premises and adjacent grounds will comply with each requirement contained in State law and City ordinances, especially this Chapter;

c. How the operation will reduce or mitigate adverse effects on the area in which it is situated, including but not limited to any adverse effects related to crime, traffic, parking, noise and lighting;

d. Hours of operation;

e. Number of employees;

f. Parking for employees and customers on the adjacent grounds;

g. Traffic flow into and out of the adjacent grounds;

h. Record keeping as required under State law and this Chapter; and

i. Procedures for identifying patients when making sales.

(4) A security plan that addresses:

a. Methods to prevent and protect employees, patients, primary caregivers and others from robberies and assaults on the licensed premises and adjacent grounds;

b. Methods to prevent burglaries on the licensed premises and adjacent grounds when the premises are closed;

c. Exterior lighting of the building and adjacent grounds;

d. Windows from the licensed premises providing a view from inside the licensed premises to the adjacent grounds;

e. Locks, burglar alarms and a safe or vault as required in this Chapter; and

f. A limited access area barrier, limited access area and employee badges for entering the limited access area as required under state law and this Chapter.

(b) The entire application shall be verified under oath by each principal in the applicant business. The registered manager and employees shall verify under oath the portions of the application that pertain to each of them.

(c) The applicant shall submit to the Authority the original application and five (5) copies of the application. The Authority shall provide copies to the Police Department, the Land Use Department and the Law Department.

(d) An applicant shall not submit its application, and the Authority shall not accept the same, until the application is complete with all required information and necessary documents attached, in clear and legible form, assembled in good order, and with all required copies. The applicant shall certify that the application is complete, and the Authority or the Authority's Clerk shall review the application to determine that it appears to be complete before accepting the same.

(e) The determination by the Authority or its Clerk that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Chapter for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the Authority may note concerns or deficiencies in the application and its contents in the Authority's determination and findings after conducting its *ex parte* review of the application as provided in Section 11-10-310.

(f) After an application is accepted as complete, it may be amended or supplemented in writing before the application is set for hearing, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them. The applicant shall submit to the Authority the original of each amendment and five (5) copies of each amendment. The Authority shall provide copies to the Police Department, the Land Use Department and the Law Department.

(g) After the application is set for hearing, the application shall not be amended and the Authority shall rule on the application as it exists at the time the hearing is set. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-308. Requirements to obtain and retain a medical marijuana license.

In order to obtain a license, the applicant shall demonstrate by a preponderance of the evidence to the Authority that the following requirements are satisfied:

(1) General requirements.

a. The applicant has obtained a limited use permit from the City for the location of the proposed licensed premises;

b. The applicant has obtained a City sales and use tax license;

c. The applicant has obtained a State sales and use tax license;

d. The applicant has obtained a City license for any other business activity that will be operated on the licensed premises;

e. The applicant has submitted an application for a license that the Clerk to the Authority has determined is complete; and

f. The applicant has paid all fees required under this Chapter.

(2) Personal requirements for the licensee, principals, registered manager and employees.

a. The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

b. The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

c. The applicant, principals, registered manager and employees have not been determined by any medical marijuana licensing authority, any other licensing board within the State or the Colorado Department of Revenue to not be persons of good character and record within the preceding three (3) years.

d. The applicant, principals, registered manager and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application. This shall constitute a per se and complete disqualification. Rehabilitation shall not be considered.

e. The applicant, principals, registered manager and employees have never been convicted of a felony pursuant to state or federal law regarding the possession, distribution or use of a controlled substance, except that this provision shall not apply as to employees if the crime the employee was convicted of is no longer a felony. This shall constitute a per se and complete disqualification. Rehabilitation shall not be considered.

f. The applicant, the applicant's creditors, principals, registered manager, and employees are persons of good character and record. When making any determination as to good character and record, the Authority may consider whether an applicant, principal, registered manager or employee has rehabilitated himself after committing a crime or other act or omission tending to indicate that such person is not a person of good character, but rehabilitation shall not be considered when the crime or other disqualifying act or omission is declared a per se disqualification under this Chapter. Notwithstanding any other burden for proof stated in this Chapter, the burden of proof to show that a person has been rehabilitated shall be beyond a reasonable doubt and shall be on the individual whose character is at issue. When evaluating claims of rehabilitation, the Authority shall consider the following factors:

1. The facts of the specific crime or other act tending to show a bad character and record;

2. Whether the specific crime or other act tending to show bad character and record involved controlled substances, dishonesty, fraud, bad faith, moral turpitude or violence;

3. Whether the specific crime or other act tending to show bad character and record involved a felony, misdemeanor, municipal offense, a civil wrong or other wrongful conduct;

4. Whether the specific crime or act caused injury or harm to other persons or entities and the extent of such harm or injury;

5. The length of time that has expired since the act or omission was committed;

6. Whether the person has led a law abiding life and has demonstrated good character since the act or omission was committed;

7. Whether the person has committed other acts tending to indicate bad character since the act or omission was committed;

8. Restitution, damages and compensation that the person has paid to persons victimized by the act or omission;

9. Fines, jail sentences, probation, community service and other penalties paid or served since the act was committed; and

10. Any other factor tending to show that the person has or has not rehabilitated his or her character and conduct.

g. The applicant, principals and registered manager have not held an interest in any liquor license, medical marijuana license or other license issued by any City, County or State that has been revoked, suspended, or fined within the preceding two (2) years.

h. The applicant, principals, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.

i. The applicant, principals and employees are not in default on any City, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

j. The applicant and principals are not in default on any student loan.

k. The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Chapter and state law pertaining to medical marijuana facilities. In determining whether an applicant, principal or employee has shown sufficient training or experience, the Authority shall consider, among other things, the following factors:

1. The role that the individual will play in operating the facility;

2. Previous experience operating medical marijuana facilities;

3. Completion of state or industry-approved courses on how to comply with Colorado laws and regulations regarding medical marijuana facilities; and

4. The individual's understanding of state law and City ordinances regulating medical marijuana as shown under questioning by the authority at the hearing.

l. The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations for medical marijuana issued by the State of Colorado.

m. The applicant and principals do not have any orders or judgments against them for child support in default or arrears.

n. The applicant and principals are not peace officers or prosecuting attorneys.

o. The applicant and principals are not licensed physicians who recommend medical marijuana.

p. The applicant and principals do not have an ownership or financial interest in more than one other license issued in the City of Pueblo or any other jurisdiction.

q. If the licensee or principals already hold one medical marijuana license in the City of Pueblo, and the application is for another medical marijuana license of the same class, issuance of the second license will not significantly restrain competition among licensees of that class.

(3) Location and other licensing of premises.

a. The proposed licensed premises and adjacent grounds meet all requirements for issuance of a state license.

b. The proposed licensed premises are located in a fixed, nonportable building.

c. The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Section 12-47-103(2), C.R.S., or as a massage parlor, a dance hall or an amusement establishment as defined in Chapter 2, Title IX, Pueblo Municipal Code.

d. The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

e. No medical marijuana license of the same class has been denied at the location of the proposed licensed premises or at another location within one thousand (1,000) feet of the proposed licensed premises, as measured from any wall of the two (2) proposed licensed premises, within the preceding two (2) years due to the nature of the use or other concern related to the location.

(4) Control, security and code compliance of premises.

a. The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

b. The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling and packaging of medical marijuana and marijuana infused products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.

c. The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Police Department, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. A locking safe or enclosed metallic storage vault located inside the proposed licensed premises in which any harvested medical marijuana and medical marijuana infused products will be secured when the licensed premises are not open to the public;

3. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two premises that can be locked from the licensee side and cannot be opened from the other side;

4. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the proposed licensed; and

5. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.

d. The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the Pueblo Zoning Department, Regional Building Department, Pueblo Fire Department and Regional Health Department.

e. There is sufficient parking available on the proposed adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

f. The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause any substantial harm to public health, safety and welfare.

(5) Requirements specific to a medical marijuana center license.

a. The applicant also obtains an optional premises cultivation license, which is either contiguous to the licensed premises of the medical marijuana center or located outside the City of Pueblo.

b. The applicant will cultivate at least seventy percent (70%) of the marijuana sold or exchanged on the licensed premises.

(6) Requirements specific to optional premises cultivation license.

a. The applicant also holds a medical marijuana center license or a medical marijuana infused products manufacturer's license.

b. The proposed licensed premises are either contiguous to the licensee's licensed premises for a licensed medical marijuana center or a marijuana infused products manufacturer's operation or are located outside the City of Pueblo.

c. The area of the proposed licensed premises utilized for cultivation is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person. The ventilation system must be inspected and approved by the Pueblo Regional Building Department.

d. The proposed licensed premises are located in a separate building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning or air handling equipment or structures with any other building or premises whatsoever, including but not limited to a medical marijuana center or medical marijuana infused products manufacturing center.

e. Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation.

f. No portion of the building in which the proposed licensed premises are located is utilized as a residence.

(7) Requirements specific to a marijuana infused product manufacturer's license:

a. The applicant has a contract with a medical marijuana center, stating the type and quantity of medical marijuana infused product that the medical marijuana center will buy from the licensee;

b. The applicant also obtains an optional premises cultivation license, which is either contiguous to the licensed premises of the medical marijuana center or located outside the City of Pueblo;

c. The applicant cultivates at least seventy percent (70%) of the marijuana necessary for its operation; and

d. The applicant will use marijuana from no more than five (5) marijuana providers, including its own optional premises cultivation operation to manufacture its marijuana infused products.

(8) Requirements for premises that are not completed.

a. If the proposed licensed premises have not been completed, inspected and approved as required in this Chapter at the time of the hearing for a new license or a hearing on transfer of an existing license to a new location, the applicant shall submit to the Authority:

1. A recorded deed to the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will probably comply with the requirements of this Chapter when completed and inspected.

b. The Authority may approve the license before the proposed licensed premises are completed, inspected and approved, but shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Chapter have been obtained and submitted to the Authority.

c. In the event that the license is approved, but the premises are not completed, inspected and approved as required in this Chapter within one hundred twenty (120) days of approval, the approval shall lapse and the license shall not be issued.

(9) Requirements of this Section also apply to licensees; continuing duty.

a. The requirements of this Section imposed on any applicant shall also apply to any licensee. The requirements of this Section imposed on any proposed licensed premises, proposed adjacent grounds or proposed location shall also apply to licensed premises, adjacent grounds and actual locations, respectively.

b. Every licensee and its principals, registered manager and employees has a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §3, 9-27-10; Ord. No. 8369 §3, 7-11-11)

Sec. 11-10-309. Good cause for denial of new license, denial of renewal or sanctions.

The Authority may deny a new application, deny renewal of a license or impose sanctions on a medical marijuana license previously approved or issued if the Authority finds, by a preponderance of the evidence at a hearing, or upon the admission or stipulation of the applicant or licensee, that any of the following have occurred:

(1) The licensee, principals, manager, employees, the licensed premises or the adjacent grounds do not meet or no longer meet one (1) or more of the requirements of Sections 11-10-301

or 11-10-308 of this Chapter, any other provision of Pueblo Municipal Code, State law or State regulations;

(2) The licensee has failed to obtain any State license, certification, registration or approval, or meet any other requirement imposed by State law or regulations;

(3) The licensee, principals, manager or employees have committed or attempted to commit any violation of any City ordinance, State statute or State regulation or have permitted others to violate the same on the licensed premises or adjacent grounds or on other licensed premises or adjacent grounds;

(4) The licensed premises have been operated in a way that substantially deviates from the operational plan approved by the Authority;

(5) The licensed premises or adjacent grounds have been operated in a way that substantially harms the public health, safety or welfare;

(6) A check, credit card, debit card or other payment for any tax, fee, fine, fine in lieu or other sum due to the City from the licensee has been stopped or rejected for insufficient funds, closed account or similar reasons;

(7) Any tax, fee, fine, fine in lieu of suspension or other sum due to the City from the licensee is unpaid and more than thirty (30) days in default; or

(8) The licensed premises have not been operated for more than one (1) year. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-310. Review of application for new license, determination and findings.

(a) Within thirty (30) days of the date that the Clerk to the Authority or the Authority itself accepts an application for a new medical marijuana license as complete, the Authority shall review the application *ex parte* and issue its determination and findings. The Authority's *ex parte* determination and findings shall:

(1) State that the application appears to show a prima facie case for approval of a license, state any concerns that the Authority may have, and direct the applicant to set a hearing under Section 11-10-311; or

(2) State that the application does not appear to show a prima facie case for approval of a license, state the deficiencies, and indicate that the applicant has a right to set the matter for a hearing under Section 11-10-311.

(b) The Authority shall notify the applicant in writing of its *ex parte* determination and findings by first-class U.S. mail addressed to the applicant at the address shown on the application.

(c) If the *ex parte* determination provided in this Section states that the application appears to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of the

date the Authority mailed its *ex parte* determination and findings to the applicant, pursue one of the following options, and failure to do so shall constitute a withdrawal of the application:

(1) Set the application for a hearing under Section 11-10-311 as provided in Section 11-10-501(f) of this Chapter; or

(2) Request from the Authority in writing a continuance of the setting of the hearing under Section 11-10-311 for no more than sixty (60) days from the date the Authority mailed its *ex parte* determination and findings to the applicant, in order to satisfy any concerns stated in the *ex parte* determination and findings, if any. Failure of the applicant to set the application for a hearing within sixty (60) days the date the Authority mailed its ex parte determination and findings to the applicant, in the manner provided in Section 11-10-501(f) of this Chapter, shall constitute a withdrawal of the application.

(d) If the *ex parte* determination provided in this Section states that the application does not appear to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of date the Authority mailed its *ex parte* determination and findings to the applicant, pursue one of the following options, and failure to do so shall constitute a withdrawal of the application:

(1) Set the application for a hearing under Section 11-10-311 as provided in Subsection 11-10-501(e) of this Chapter; or

(2) Request from the Authority in writing a continuance of the setting of the hearing under Section 11-10-311 for no more than one hundred twenty (120) days from the date the Authority mailed its *ex parte* determination and findings to the applicant, in order to satisfy the deficiencies stated in the *ex parte* determination and findings. Failure of the applicant to set the application for a hearing within one hundred twenty (120) days from the date the Authority mailed its *ex parte* determination and findings to the applicant, in the manner provided in Subsection 11-1-501(e) of this Chapter, shall constitute a withdrawal of the application.

(e) Withdrawal of an application under this Section shall not constitute a denial of the application under Paragraph 11-10-308(d)(5) and shall not prevent the applicant from re-submitting its application upon payment of a new application fee.

(f) The determination and findings made on the Authority's *ex parte* review of the application under this Section shall not be binding on the Authority or any person who has standing at a hearing under Section 11-10-311 of this Chapter, and any matter that the *ex parte* determination and findings state has been met, has not been met, or which the determination and findings do not address, may be addressed in full at the hearing. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-311. Hearing on application for new license or the denial of a new medical marijuana license.

(a) Before approving or issuing any medical marijuana license, and upon request of any applicant whose application has been summarily denied *ex parte* for failure to show a prima facie case for approval of a license, the Authority shall hold a hearing at which it shall hear evidence relevant to:

(1) Whether the applicant has met the requirements necessary to obtain a medical marijuana license in Sections 11-10-301 and 11-10-308, Pueblo Municipal Code;

(2) Whether there is good cause for denial of the license as defined in Section 11-10-309, Pueblo Municipal Code; and

(3) Whether conditions should be imposed on the license as provided in Section 11-10-312, Pueblo Municipal Code.

(b) The issues at the hearing shall be limited to the foregoing and shall not include whether persons favor or approve of medical marijuana or favor or oppose medical marijuana licenses in general.

(c) If the Authority finds at the hearing that the applicant has shown by a preponderance of the evidence that it has met the requirements necessary for issuance of a medical marijuana license and that there is no good cause to deny the license, the Authority shall approve the license or approve the license with conditions as provided in Section 11-10-312, Pueblo Municipal Code. If the licensed premises and adjacent grounds have been completed, inspected and approved as provided in this Chapter, the Authority shall issue the license forthwith. If not, the Authority shall withhold issuance of the license until the applicant demonstrates that the licensed premises have been completed in substantial compliance with the plans, specifications and drawings previously submitted and approved, and the licensed premises have been inspected and approved as provided in this Chapter. In the event that the licensed premises are not completed, inspected and approved within one hundred twenty (120) days of the approval, the approval shall lapse and the license shall not be issued.

(d) If the Authority finds at the hearing that the applicant has not shown by a preponderance of the evidence that it has met the requirements for issuance of a medical marijuana license or has failed to show by a preponderance of the evidence that there is no good cause to deny the license, the Authority shall deny the license. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-312. Conditions on licenses.

(a) At the time that a new license is first approved, when an existing license is renewed, at any time that a sanction other than revocation is imposed, or at any time that the Authority approves a major change to a license, licensed premises or adjacent grounds, the Authority may impose on the license, after a hearing, any condition related to the license, licensed premises or adjacent grounds, that is reasonably necessary to protect public health, safety, or welfare, including but not limited to the following:

(1) Additional security requirements, including but not limited to security guards, steel doors, steel window coverings and surveillance cameras;

(2) Additional record keeping requirements;

(3) Limits and requirements on parking and traffic flow;

(4) Requirements for walls, doors, windows, locks and fences on the licensed premises and adjacent premises;

(5) Limits on the number of registered medical marijuana patients who may patronize the establishment;

(6) Limits on the quantity of marijuana that may be sold to a marijuana infused product manufacturer;

(7) Limits on medical marijuana infused products;

(8) Requirements and limits on ventilation and lighting;

(9) Limits or requirements on areas on the licensed premises that are closed, locked or not open to public view;

(10) Limits on the products other than medical marijuana and marijuana infused products that can be sold on the premises;

(11) Limits on noise inside the licensed premises or on the adjacent grounds;

(12) Prohibitions on certain conduct on the premises;

(13) Sanitary requirements;

(14) Limits on hours of operation;

(15) Requirements for screening new and existing employees;

(16) Requirements for identifying medical marijuana patients and primary caregivers;

(17) A requirement that the licensee temporarily close the licensed premises to the public until certain changes, inspections or approvals are made; and

(18) A limit on the square footage of the licensed premises.

(b) The Authority may impose the foregoing conditions in lieu of or in addition to any sanctions that it may impose, except where the sanction is revocation.

(c) Any condition imposed on a license shall be placed on the face of the license certificate. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-313. License certificate; posting of license certificate and notices on licensed premises.

(a) After the Authority issues a license, the Clerk of the Authority shall issue to the licensee a certificate evidencing issuance of the license. The license certificate shall state the date issued, the term of the license, the name of the licensee, the address of the premises, conditions on the license and the following:

THIS LICENSE CONFERS ONLY A LIMITED AND CONDITIONAL PRIVILEGE SUBJECT TO THE REQUIREMENTS, CONDITIONS, LIMITATIONS AND QUALIFICATIONS OF THE PUEBLO MUNICIPAL

CODE, AS AMENDED, AND STATE LAW. THIS LICENSE DOES NOT CONFER A PROPERTY RIGHT OF ANY KIND. THE LICENSE AND THE PRIVILEGE CREATED BY THE LICENSE MAY BE FURTHER REGULATED, LIMITED OR COMPLETELY EXTINGUISHED BY THE CITY WITHOUT ANY COMPENSATION TO THE LICENSEE. THIS LICENSE IS SUBJECT TO THE FUTURE EXERCISE OF THE LOCAL OPTION DESCRIBED IN C.R.S. §12-43.3-106, AND OTHER FUTURE ORDINANCES PASSED BY THE PEOPLE OF THE CITY OF PUEBLO OR CITY COUNCIL. THE HOLDER OF THIS LICENSE SHALL BE SUBJECT TO ANY ORDINANCE OR PROHIBITION PASSED AFTER THE LICENSE WAS APPROVED OR ISSUED. IN THE EVENT THAT THE PEOPLE OF THE CITY OF PUEBLO, BY A MAJORITY VOTE OF THE REGISTERED ELECTORS OF THE CITY, AT A REGULAR OR SPECIAL ELECTION, OR A MAJORITY OF CITY COUNCIL, VOTE TO PROHIBIT BY ORDINANCE THIS TYPE OF LICENSE AND THE OPERATION OF THIS TYPE OF MEDICAL MARIJUANA FACILITY WITHIN THE CITY OF PUEBLO, PURSUANT TO C.R.S. §12-43.3-106, THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS MEDICAL MARIJUANA FACILITY SHALL BE ILLEGAL ON THE EFFECTIVE DAY OF SUCH ORDINANCE.

(b) The licensee shall post the following on the licensed premises in a prominent place where the public, patients, and primary caregivers can easily view and read while standing in a location accessible to the public:

(1) The license certificate issued by the State, along with any conditions on the same.

(2) The license certificate issued by the Authority, along with any conditions on the same.

(3) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES)

(4) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS MEDICAL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE PUEBLO POLICE DEPARTMENT AT: 553-2538.

(5) If the Licensee has received any sanction from the Authority during the preceding five years, a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSE HAS BEEN SANCTIONED BY THE PUEBLO MEDICAL MARIJUANA LICENSING AUTHORITY DURING THE PRECEDING FIVE (5) YEARS FOR THE FOLLOWING MISCONDUCT:

(STATE DATE, VIOLATION AND SANCTION RECEIVED, LISTING ALL VIOLATIONS AND SANCTIONS IMPOSED IN THE PRECEDING FIVE (5) YEARS).

(6) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE MEDICAL MARIJUANA, MARIJUANA PLANTS AND MEDICAL MARIJUANA INFUSED PRODUCTS SOLD ON THESE PREMISES ARE CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO HEALTH, SAFETY OR EFFICACY.

THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA INFUSED PRODUCTS.

THE CHEMICALS, ADDITIVES, PESTICIDES, HERBICIDES AND FERTILIZERS, ARTIFICIAL AND NATURAL, USED IN THE CULTIVATION, PROCESSING, PRODUCTION AND STORAGE OF THE PRODUCT ARE LISTED ON THE PACKAGING OF EACH PRODUCT.

(7) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE DIVERSION OF MEDICAL MARIJUANA FOR NON-MEDICAL PURPOSES IS A VIOLATION OF STATE LAW.

THE USE OF MEDICAL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY. IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA.

POSSESSION AND DISTRIBUTION OF MEDICAL MARIJUANA IS A VIOLATION OF FEDERAL LAW.

SMOKING OR CONSUMING MEDICAL MARIJUANA WITHIN THESE PREMISES, WITHIN 15 FEET OF THESE PREMISES OR ANYWHERE IN PUBLIC IS UNLAWFUL.

(c) The licensee shall post the following on the licensed premises in a prominent place near other notices to employees, where the licensee, principals, registered manager and employees can easily view the same: a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS AND EVERY ROOM, AREA, LOCKER, SAFE AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY CITY EMPLOYEES AND POLICE OFFICERS AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE.

(Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-314. Registered manager.

Every licensee shall designate one (1) registered manager and delegate to the registered manager authority over the day to day operations of the licensee and the responsibility to ensure that the licensed premises and adjacent premises are operated in compliance with this Chapter. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-315. Major changes to license, licensed premises or adjacent grounds requiring approval of the Authority.

(a) No licensee shall make any of the following changes without first obtaining the written approval of the Authority:

(1) Any transfer of the license or any ownership interest in the licensee entity or license;

(2) Any change in location of the licensed premises;

(3) Any change in the licensee's principals;

(4) The hiring, substitution, resignation, replacement or termination of the registered manager;

(5) Any change in ownership of any of the stock of the licensee corporation;

(6) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, surveillance system, doors, window coverings or security system at the licensed premises;

(7) Any material change to the adjacent grounds, including but not limited to lighting, parking, traffic flow through and the adjacent grounds surfaces, landscaping, fences, speakers or sound; and

(8) Any material change in or deviation of the operation from the operational plan submitted at the time that the license was approved.

(b) The Authority shall require a public hearing before approving any change of location.

(c) The Authority may summarily approve all other proposed major changes or hold a public hearing on the same, in the Authority's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause any substantial harm to public health, safety or welfare.

(d) At any hearing regarding any of the foregoing changes, the Authority shall determine whether the proposed change would probably cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation. If the Authority finds that the change will probably not cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation, it shall approve the change. If the Authority finds that the proposed change would probably harm public health, safety or welfare or result in a violation of any law or regulation, the Authority may either disapprove the proposed change or impose conditions on the license.

(e) No application for transfer of ownership, transfer of location or other major change may be applied for or acted upon while any complaint for sanctions is pending with the Authority or the State.

(f) The transfer of a license to a new owner does not constitute a new license. The transferee of a license or ownership interest in a license takes transfer of such license or interest subject to the

conditions, waivers, history, record and sanctions imposed on that license under the previous ownership of the license. The fact that the license is owned by new persons or entities shall not preclude the Authority from considering the history, record and past sanctions imposed on the license under previous ownership when the Authority considers new sanctions for violations committed under new ownership of the license. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-316. Reports of minor changes.

Every licensee shall report the following to the Authority, in writing within ten (10) days of such event:

(1) Any change in the licensee's trade name, trademark, logo or service mark used at the licensed premises, adjacent grounds, on any product sold or exchanged at the licensed premises, on any advertising or sign, or in any correspondence or document;

(2) Any change in the labeling or packaging of products sold at the licensed premises;

(3) Any new creditors or debts that the licensee or its principals may incur that are related to the licensed premises, adjacent grounds or any ownership interest in the licensee, in a single or cumulative amount greater than one thousand dollars ($1,000.00);

(4) Any charges filed against or any conviction of any principal, registered manager or employee for any felony, misdemeanor or serious traffic offense, including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law;

(5) Any change to any sign on the licensed premises or adjacent grounds; and

(6) The hiring, dismissal or resignation of any employee. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-317. Renewal of license.

(a) A licensee may renew its license by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of his or her license at least thirty (30) days before expiration of the license, the license shall expire.

(b) A licensee may renew a license that has expired if:

(1) The license has expired less than ninety (90) days; and

(2) The licensee pays the regular renewal fee and an additional five hundred dollars ($500.00) late renewal fee.

(c) In the event that an application for renewal has been filed at least thirty (30) days before the expiration of the previous license, but the Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Authority rules on the application for renewal, but in no event may the license be extended more than

ninety (90) days under this Subsection. The licensee shall pay a license extension fee for any such extension.

(d) The Authority may hold a hearing on any application for renewal. The Authority may summarily grant an application for renewal without a hearing if it appears from the application and other information that the licensee is:

(1) In compliance with this Chapter;

(2) There have not been any significant changes in the licensee, the principals, the licensed premises, the adjacent grounds or the registered manager previously approved; and

(3) There is no reason to believe that there are any grounds for sanctions or denial of the license.

(e) The Authority shall set a public hearing on the application for renewal if it finds that there is probable cause to believe that the licensee is:

(1) Not in compliance with this Chapter or has committed violations of this Chapter; or

(2) There is probable cause to believe that there are grounds for sanctions as provided in this Chapter;

(3) There have been any major changes described in Section 11-10-315, Pueblo Municipal Code, or any unreported minor changes described in Section 11-10-316, Pueblo Municipal Code.

(f) The fact that the Authority has granted a renewal of a license shall not constitute a waiver of any previous violations and shall not stop or bar the City from seeking sanctions for, or the Authority from imposing sanctions for, any violation that occurred during any license period before the renewal. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-318. Trade names, trademarks, logos, labels, packaging and advertising.

(a) It shall be unlawful for any licensee to use any logo, trademark, trade name, sign or advertising using the word "marijuana," "cannabis," any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana, except that the complete phrase "medical marijuana" may be used, so long as both words are the same size, style and font.

(b) Nothing contained in this Section shall be construed as creating a prior restraint on speech or press. The Authority shall not require an applicant or licensee to obtain any approval or license from the Authority before using any logo, trademark, trade name, sign or advertising. Nothing contained in this Subsection shall prevent the City from taking civil, administrative or criminal action against any person or license after any logo, trademark, trade name, sign or advertising has been used.

(c) Any court of competent jurisdiction construing or applying this Section shall seek a saving construction and application that makes the Section constitutional. In the event that any court of

competent jurisdiction determines that any provision in this Section violates any right that any person may have to free speech or press, despite the Court's saving construction and application, the Court shall strike this Section only and sever the same from the remainder of this Chapter, which shall remain valid and effective without this Section. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8369 §4, 7-11-11)

Sec. 11-10-319. Books and records.

(a) Every licensee shall maintain on the licensed premises, at any time that any person is present on the licensed premises, accurate and up to date books and records of the business operations of the licensee, or an authentic copy of the same, including but not limited to the following:

(1) Lists, manifests, orders, invoices and receipts for all marijuana, marijuana plants and marijuana infused products cultivated, harvested, processed, produced, delivered, purchased, stored, sold and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type, quantity, weight and purchaser and whether each transaction involved harvested marijuana, live plants, marijuana infused products or seeds;

(2) An inventory of all marijuana and marijuana infused products presently on the licensed premises;

(3) Sales and use taxes collected and paid;

(4) The name, address and a copy of the patient's medical marijuana card for every patient who has registered the medical marijuana center as his or her primary center or who has purchased medical marijuana, marijuana plants or medical marijuana infused products at the licensed premises;

(5) The written recommendation of any physician who has recommended that a patient registered with the medical marijuana center needs more than two (2) ounces of medical marijuana and six (6) marijuana plants to address the patient's debilitating medical condition;

(6) The name, address and a copy of the medical marijuana license of any other medical marijuana facility licensee with whom the licensee has transacted any business, including but not limited to any purchase, sale, or exchange of marijuana plants, harvested marijuana or medical marijuana infused products; and

(7) Copies of the medical marijuana card of a homebound patient and the waiver from the State of Colorado authorizing the primary caregiver to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound medical marijuana patient presented by a primary caregiver who purchases marijuana or marijuana infused products on behalf of a homebound patient.

(b) The licensee shall separate any record showing the patient's debilitating medical condition from all other records, maintain such records separately from all other records, and mark the cover to such records: "Confidential Patient Medical Information." (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §4, 9-27-10)

Sec. 11-10-320. Inspection of books and records; audits.

(a) Any law enforcement officer may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 11-10-319(a), Pueblo Municipal Code, at any time that anyone is present inside the licensed premises, but shall not inspect the records described in Section 11-10-319(b), Pueblo Municipal Code, unless a warrant specifically authorizing inspection of such records is issued or there are legal grounds that would excuse the requirement of a warrant.

(b) Upon five (5) days written notice, the licensee shall provide the books and records of the licensee for inspection and auditing by the City, but shall not be required to provide the records described in Section 11-10-319(b), Pueblo Municipal Code.

(c) In the event that the information described in Section 11-10-319(b), Pueblo Municipal Code, is interspersed in the same record or contained on the same sheet of paper or electronic record, the licensee shall copy the records, redact the information described in Section 11-10-319(b) and provide a redacted copy to the City or law enforcement officers. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-321. Inspection of licensed premises and adjacent grounds.

(a) Every licensed premises and adjacent grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, sales, use and excise tax officials and health department officials at any time that anyone is present in the licensed premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.

(b) The licensee, principals, registered managers and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers or containers on the licensed premises and adjacent grounds, except as provided in this Section.

(c) Licensees, principals, registered managers and employees on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy with regard to their persons, the personal effects in their immediate possession, and their own motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, safes, lockers, containers or objects on the licensed premises or adjacent grounds.

(d) Patients, primary caregivers and other persons on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, containers or objects on the licensed premises and adjacent grounds.

(e) Police officers and other officials shall not inspect records described in Section 11-10-319(b), Pueblo Municipal Code, or any person, place or area in which a person retains a reasonable expectation of privacy, unless a search warrant is obtained for the same or there are legal grounds that would excuse the requirement of a warrant. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-322. Requests for information.

(a) The Authority and any City employee enforcing any City ordinance, State law or regulation may submit a written request for information relevant to such enforcement to the licensee by certified mail, return receipt requested, at the address of the licensed premises.

(b) The licensee shall provide complete written answers to such questions, signed by the registered manager, within twenty (20) days of the date that the request was mailed or hand delivered to the licensee or registered manager, but shall not be required to disclose the information described in Section 11-10-319(b), Pueblo Municipal Code.

(c) The licensee, principals, registered manager and employees shall have no expectation of privacy in any information or document pertaining to the operation of the licensed business, licensed premises and adjacent grounds as to the State or City, but the City shall not release the information and records as public records.

(d) In the event that the licensee refuses to provide answers on the grounds that the answer may tend to incriminate him or her for some criminal offense, or on advice of legal counsel, the City and Authority may properly draw the inference and conclusion that the answer to the question would have been adverse to the licensee's position regarding the investigation or other matter then pending, and may institute a complaint and proceedings for sanctions based on such conclusion.

(e) The licensee may not refuse to answer a question submitted to it on the grounds that:

(1) The answer may incriminate its principals, creditors, registered manager or employees;

(2) The answer might place his or her license in jeopardy; or

(3) The question is not relevant.

(f) If the licensee is a natural person, the licensee may seek an injunction against the request for information on the ground that the information is highly personal, does not involve the finances or operation of the licensed premises, nor self incrimination, and is protected by the licensee's own constitutional right to privacy, but shall also be required to satisfy all the requirements under Colorado law for issuance of a temporary restraining order, preliminary injunction or permanent injunction. Failure of the licensee to seek an injunction against the request for information within twenty (20) days from the date the request for information is mailed to the licensee shall constitute a waiver of any right of privacy regarding the requested information. (Ord. No. 8244 §1, 7-26-10)

Article IV
Disciplinary Actions Against Licenses

Sec. 11-10-401. General.

(a) Administrative actions to impose sanctions against a licensee may be initiated only by complaint filed by the City or by the Authority on its own motion.

(b) The Authority shall review the complaint *ex parte* and determine whether the complaint and any documents or exhibits submitted therewith show probable cause to believe that grounds for sanctions exist. If the Authority finds that the complaint along with any documents or exhibits submitted therewith do not show probable cause to believe that a violation of this Chapter, State law or State regulations has occurred, the Authority shall dismiss the complaint without prejudice to refile the complaint with additional information showing probable cause. If the Authority finds that the complaint along with the documents or exhibits submitted therewith show probable cause to believe that a violation of this Chapter, State law or State regulations has occurred, the Authority shall issue an Order to Show Cause to the licensee requiring the licensee to appear before the Authority on a specific date and at a specific time to answer the complaint.

(c) Sanctions may be imposed in a hearing for sanctions, renewal, denial or for approval of major changes, but the City or Authority shall place the licensee on notice that sanctions may be sought and the grounds for the same by filing a complaint and obtaining an Order to Show Cause from the Authority.

(d) The Authority may impose sanctions against a licensee based on any of the grounds stated in Section 11-10-309, Pueblo Municipal Code.

(e) In the event that a license expires while proceedings for sanctions are pending, the license may be temporarily extended until the Authority's final decision. The licensee shall pay a license extension fee for each thirty (30) day period or portion thereof that the license is temporarily extended. If the fee is not paid, the license shall expire. After the Authority renders its final decision, the licensee shall submit an application for renewal within fifteen (15) days of the Authority's final decision.

(f) A licensee shall have no right to surrender its license while an investigation, complaint or proceeding for sanctions is pending, but the Authority may permit the same if the City consents to the surrender.

(g) No complaint or action for the sanctions provided in this Chapter shall be instituted or based upon any conduct or omission by a licensee, principal, registered manager or employee that occurred more than three years before the complaint for sanctions was filed, but such conduct or omissions may be admitted in evidence if relevant to other violations that have occurred within the three year limitation period. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §5, 9-27-10)

Sec. 11-10-402. Sanctions.

(a) The Authority may impose any one or more of the following sanctions against a license, in whatever combination the Authority finds appropriate, except that no other sanction may be used in addition to revocation:

(1) Additional conditions as described in Section 11-10-312, Pueblo Municipal Code;

(2) A fine in an amount to be determined by the Authority;

(3) Suspension for up to one hundred eighty (180) days;

(4) Fine in lieu of suspension, as provided in Section 12-43.3-601(3), C.R.S.;

(5) The reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the City Attorney, police officers, witnesses, subpoenas, Clerk to the Authority, hearing officer and other City employees utilized in any proceedings for sanctions; and

(6) Revocation.

(b) The Authority may suspend any sanction or portion of sanction on any reasonable condition that the Authority deems appropriate in its discretion. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-403. Factors to consider in determining sanctions.

(a) In determining the appropriate sanction and whether any sanction or portion of a sanction should be suspended, the Authority shall consider the following factors:

(1) The severity of the violation;

(2) Whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently or accidentally;

(3) Whether the licensee profited or gained some competitive advantage from the violation or attempted to do so;

(4) Potential and actual harm to patients, primary caregivers, residents, businesses and the reputation of the medical marijuana industry;

(5) Harm to public health, safety and welfare;

(6) Warnings given to the licensee, principals, registered manager or employees by the Authority or any State or City employee before the violation occurred;

(7) The deterrent effect of the sanction on the licensee and other licensees;

(8) Whether the violation was committed or permitted by a principal, registered manager or employee;

(9) Previous violations by the licensee, principals manager or employees of the same or different nature and at the same or different licensed premises, including contempt;

(10) Previous sanctions imposed on the licensee, including sanctions for contempt;

(11) Steps taken by the licensee before the violation occurred to prevent the violation from occurring;

(12) Whether the violation occurred on the licensee's licensed premises or its adjacent grounds, or the licensed premises or adjacent grounds of another licensee;

(13) Any plans that the licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and

(14) Any other aggravating or mitigating factors, except those that the Authority may not consider.

(b) In determining the appropriate sanction, the Authority shall not consider the following factors:

(1) Gender, race, ethnicity, ancestry, religion or sexual orientation;

(2) The licensee's business income at the licensed premises, except as provided in Section 12-43.3-601(3), C.R.S., for fines in lieu of suspension;

(3) The probable effect of the sanction on the licensee's finances;

(4) Any criminal sanction imposed on any person as a result of the same or related conduct;

(5) Any administrative penalty imposed by the State as a result of the same or related conduct;

(6) Any civil judgment imposed as a result of the same or related conduct;

(c) The administrative sanctions provided in this Section are intended to be in addition to any administrative, civil or criminal penalty, or judgment imposed by any court or licensing authority. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-404. Summary suspension.

(a) The Authority may summarily suspend any license without notice or hearing if the Authority finds, *ex parte*, that there is probable cause to believe that:

(1) The licensee or its principals, registered manager or employees have committed a willful or deliberate violation of this Chapter; and

(2) The continued operation of the medical marijuana license poses an immediate and substantial threat to public health, safety and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial harm to public health, safety and welfare.

(b) If the Authority imposes a summary suspension *ex parte*, it shall notify the licensee in writing as soon as is practical that it has been summarily suspended, that it must close its licensed premises, and the date, time and place of the three-day hearing to follow.

(c) The Authority shall hold a hearing within three (3) business days, at which the licensee may be present, to determine whether the summary suspension should continue pending a full hearing on the alleged violation.

(d) The Authority shall set a full hearing on the sanctions to be imposed for the violation that led to summary suspension to be held within fifteen (15) days from the date the licensee was first informed of the summary suspension and required to close the licensed premises, unless the Authority finds at the three-day hearing or upon the City's motion that there no longer is probable cause to believe that a violation occurred.

(e) The licensee may waive the fifteen (15) day hearing requirement and request a later hearing, but such waiver shall operate as consent to continue the summary suspension until the later date. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-405. Imputing knowledge and violations to the licensee.

(a) Any fact that a licensee's principal, registered manager or employee knows or once had knowledge of, or in the exercise of reasonable diligence should know, or should have once known, shall be imputed to the licensee for purposes finding whether a violation occurred and imposing sanctions.

(b) Any fact that occurs in the licensed premises or adjacent grounds that a reasonable person observing the area would be aware of shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

(c) Any violation of law committed by a licensee's principal, registered manager or employee, or which any of the same permit on the licensed premises or adjacent grounds, shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-406. Effect of sanctions.

(a) New conditions. A licensee who has new conditions imposed on the license as a sanction shall bring the licensed premises into compliance with the new condition within such period as the Authority may specify in its order. Failure to do may be grounds for further sanctions.

(b) Fine, fine in lieu of suspension and costs. A licensee who has a fine, a fine in lieu of suspension or costs imposed on the license shall:

(1) Pay the fine and costs imposed within the time specified in the Authority's order. In the event that the fine is not paid within the time specified in the Authority's order, the Authority may impose any suspended license suspension or impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.

(2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height for a period of ten (10) continuous days which shall be specified in the Authority's order, stating:

THE MEDICAL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN FINED AND ADJUDGED COSTS BY THE PUEBLO MEDICAL MARIJUANA LICENSING AUTHORITY IN THE AMOUNT OF $______ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(c) Suspension of license. A licensee whose license has been suspended shall:

(1) Close the licensed premises to all persons except the registered manager and employees during the term of the suspension.

(2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height during the period that the suspension is imposed, stating:

THE MEDICAL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN SUSPENDED BY ORDER OF THE PUEBLO MEDICAL MARIJUANA LICENSING AUTHORITY FOR DAYS FROM _____________ THROUGH _______________ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(d) Revocation of license. A licensee whose license is revoked shall:

(1) Close the licensed premises and dispose of all medical marijuana on the licensed premises through legal means within such time and by such means as the Authority may order.

(2) Not be eligible to apply for a new license for a period of two (2) years. (Ord. No. 8244 §1, 7-26-10)

Article V
License Hearings

Sec. 11-10-501. Notice of hearings; setting of hearings.

(a) Notice for hearings on applications for new licenses, denial of a new license, renewals of licenses and approval of major changes shall be given to the public in the manner prescribed by State law by posting the proposed premises and publishing a notice in a newspaper of general circulation at least fifteen (15) days before the hearing, stating the name of the applicant, the address of the proposed licensed premises and the type of license applied for.

(b) All notices shall state the date, time and place of the hearing, the name of the applicant or licensee, the address of the proposed or licensed premises, the date, time and place of the hearing, and the issue before the Authority.

(c) The applicant shall have the responsibility to set the matter with the Clerk of the Authority for a hearing, publish notices, provide a publisher's affidavit of publication, post the premises with notice as required by this Chapter and state law and provide an affidavit of posting.

(d) Failure of an applicant to properly publish notice of the hearing, post the premises with notice of the hearing as provided in this Chapter and provide proper affidavits of the same shall deprive the Authority of jurisdiction to hold a hearing on the application.

(e) Applicants for a new license seeking a hearing under Section 11-10-311 of this Chapter shall have the sole responsibility to:

(1) Conduct the setting of the hearing with the Clerk of the Authority within the time limits prescribed in Subsection 11-10-310(c);

(2) Select a date for the hearing that is not less than thirty (30) and no more than ninety (90) days from the day of the setting; and

(3) Publish and post the proposed premises with notice as required in this Chapter.

(f) Failure of an applicant to successfully bring an application for a new license or any major change to a hearing in compliance with every requirement of this Section shall constitute withdrawal of the application. Withdrawal of an application under this Section shall not constitute a denial of the application under Paragraph 11-10-308(d)(5) and shall not prevent the applicant from resubmitting its application upon payment of a new application fee. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8369 §5, 7-11-11)

Sec. 11-10-502. Hearing procedures.

(a) Hearings shall be conducted in accordance with the procedures outlined in this Chapter. Where this Chapter does not address a procedural issue, the procedures in Chapter 7, Title I, Pueblo Municipal Code, Article 43.3, Title 12, C.R.S., and any procedural rules enacted pursuant to that article shall apply unless the same are clearly inconsistent with the provisions of this Chapter.

(b) Failure of an applicant or licensee to appear at any scheduled hearing of which the applicant or licensee has received notice or has himself or herself set, and for which notice was posted and published in compliance with this Chapter, without a showing of good cause verified by the applicant's affidavit filed with the authority within ten (10) days of the scheduled hearing, shall constitute a default and a withdrawal of the application or motion, and a default of any complaint, Order to Show Cause, motion or other matter pending against the licensee. Any such application or motion withdrawn by the applicant or licensee may not be re-filed for one (1) year.

(c) After an application has been filed, a hearing on the application has been set and notice has been published and posted in compliance with this Chapter, any withdrawal of the application by the applicant shall constitute a denial of the license under Section 11-10-308(d)(5) and Section 12-43.3-308, C.R.S., unless the City stipulates that the withdrawal shall not constitute such a denial.

(d) The Authority may hear and decide motions.

(e) The Authority may adjourn and continue any hearing, at the request of the applicant and with the consent of the City, to give the applicant an opportunity to fulfill any requirement that has not been met or to make changes to its application or operational plan.

(f) The Authority may join various matters pending concerning the same license in a single hearing.

(g) Every decision of the Authority shall be in writing, stating the reasons therefor, and shall be made within thirty (30) days after the date the complete application is submitted or within thirty (30) days of the public hearing if a public hearing is required or held. A copy of such decision shall be

sent by certified mail to the applicant at the address shown in the application. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-503. Discovery and subpoenas.

(a) Any complaint or motion for sanctions shall contain a summary of the legal and factual grounds for the same.

(b) Every party who has standing to be heard at a hearing shall provide a list of witnesses and exhibits to every other party who has standing, along with copies of the exhibits, at least ten (10) days before the hearing.

(c) Each party shall provide the other parties who have standing with copies of any statements or reports relevant to the matter.

(d) Any party may provide copies to another party by filing a copy in the Authority's file, which any party may access and copy upon reasonable notice and upon payment of reasonable copying charges.

(e) No party shall be entitled to any additional discovery and the Authority shall not order any further discovery.

(f) Subpoenas for the attendance of witnesses with or without documents and other tangible things shall be issued as provided in Chapter 7, Title I, Pueblo Municipal Code. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-504. Burden of proof.

(a) In any proceeding under this Chapter to obtain approval or issuance of a license, renewal of a license, concerning denial of a new license, or to obtain approval for any new principal, manager, employee or any major change, the applicant or licensee shall have the burden to prove by a preponderance of the evidence: (1) his or her right to such license; and (2) that there is no good cause for denial of the license or approval.

(b) In any proceeding under this Chapter in which any person seeks to impose a condition on a license, the person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare. Notwithstanding the foregoing, the Authority may, on its own motion, in any hearing for a new license, transfer of a license to a new location, or transfer of a license to a new licensee, impose a condition on a license where it finds by a preponderance of the evidence that such condition is necessary to protect public health, safety or welfare.

(c) In any proceeding under this Chapter to impose any sanction against a license, the City shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-505. Evidence.

(a) The Colorado Rules of Evidence and the common law rules of evidence shall not apply. The Authority may accept into evidence any testimony or exhibit and give such evidence the weight that the Authority believes it deserves.

(b) The Authority may accept hearsay and multiple-hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable and trustworthy and has probative value accepted by reasonable and prudent persons in the conduct of their affairs. The Authority shall not be required to make a finding that the hearsay meets this standard. If the Authority admits the hearsay, it shall be conclusively presumed that the hearsay met this standard unless the Authority makes findings to the contrary.

(c) The Authority shall have the authority to exclude testimony and other evidence as irrelevant, cumulative or on the ground that the witness does not have standing and was not called as a witness by a party who does have standing.

(d) The Authority may take administrative notice of any matter contained in its file.

(e) If City Council has appointed a Board to act as the Authority, the Board may delegate to the chair or another member of the Board the authority to make procedural and evidentiary rulings at any hearing, but every member of the Board present shall vote on the findings and conclusions at the close of the hearing. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-506. Standing.

(a) At any hearing for issuance of a new license, for denial of a new license, for renewal or for any major change in the premises, only the following parties shall have standing to be heard:

(1) The applicant or licensee;

(2) Any person who resides within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises;

(3) Any person who owns any real property within a one-half (½) mile radius of the adjacent grounds of the proposed licensed premises;

(4) Any person who owns or is employed by any business within a one-half (½) mile radius of the adjacent grounds of the proposed licensed premises; and

(5) The City of Pueblo.

(b) At all other hearings, only the applicant or licensee and the City of Pueblo shall have standing. (Ord. No. 8244 §1, 7-26-10)

Article VI
Reserved

Article VII
Violations and Penalties

Sec. 11-10-701. Unlawful acts – any person.

It shall be unlawful for any person to:

(1) Forge, duplicate or alter any medical marijuana card;

(2) Possess, exhibit or use any medical marijuana card issued to another person, except that a primary caregiver who has received a waiver from the State authorizing him or her to purchase and transport medical marijuana to a homebound patient may possess and use the medical marijuana card of the homebound patient while purchasing and transporting medical marijuana to the homebound patient;

(3) Make any false statement, written or verbal, to the Authority or to any City employee, in any investigation, inquiry, hearing, testimony, application, report or document related in any way to medical marijuana or the licensing thereof;

(4) Unseal on any licensed premises any marijuana infused product; or

(5) Purchase, sell, exchange or deliver any medical marijuana, marijuana plant or marijuana infused product in public, except in a licensed premises. (Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-702. Unlawful acts – patients and primary caregivers.

It shall be unlawful for any patient or primary caregiver to:

(1) Give, lend or sell a medical marijuana card or identification to any other person, except that a homebound patient who has received a waiver from the State permitting his or her primary caregiver to transport medical marijuana to him or her may lend his or her medical marijuana card and identification to his or her primary caregiver for the purpose of purchasing and transporting medical marijuana to the homebound patient;

(2) Fail to have in his or her possession a medical marijuana card at any time the patient or primary caregiver is purchasing, exchanging, receiving, transporting or in possession of any medical marijuana, marijuana plants or marijuana infused product;

(3) Purchase and transport marijuana from a medical marijuana facility to a homebound patient without having in his or her possession the primary caregiver's own medical marijuana card, the medical marijuana card of the homebound patient, and a copy of the State waiver permitting the primary caregiver to purchase medical marijuana from a medical marijuana center and transport the medical marijuana to the homebound patient; or

(4) Smoke, eat, drink or otherwise use or consume any medical marijuana or marijuana infused products on any licensed premises or anywhere in public. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §6, 9-27-10)

Sec. 11-10-703. Unlawful acts – licensees, principals, registered managers and employees.

It shall be unlawful for any licensee, principal, registered manager or employee of a licensee to commit any of the following acts:

(1) To violate or to fail, neglect or refuse to comply with any requirement of this Chapter, Chapter 1, Title IX Pueblo Municipal Code, Article 43.3, Title 12, C.R.S., or any State regulation pertaining to medical marijuana.

(2) To permit any violation of this Chapter or any law or regulation on the licensed premises or the adjacent grounds.

(3) To operate a medical marijuana center at any time that any of the requirements or conditions contained in Sections 11-10-301 and 11-10-308, Pueblo Municipal Code, are not satisfied.

(4) To sell, dispense or give away any medical marijuana, marijuana plants or medical marijuana infused product to any person except:

a. Another medical marijuana licensee, to the extent and in the manner permitted by law;

b. A medical marijuana patient who presents at the time and place of each sale or gift his or her own valid medical marijuana card along with his or her own government-issued photographic identification which matches the name shown on the medical marijuana card; or

c. A primary caregiver purchasing or receiving medical marijuana or medical marijuana infused products on behalf of a homebound patient who presents at the time and place of each sale or gift: (a) his or her own medical marijuana card, along with his or her own government-issued photographic identification which matches the name shown on the medical marijuana card; (b) the waiver from the State of Colorado authorizing the primary caregiver to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound patient; and (c) the homebound patient's medical marijuana card along with the homebound patient's government-issued photographic identification, which matches the name shown on the medical marijuana card.

(5) To fail, neglect or refuse to collect sales taxes on any transaction or to promptly pay any tax, fee or charge required under this Chapter.

(6) To fail, neglect or refuse to promptly provide any books, records, reports, information, documents or answers to requests for information required under this Chapter.

(7) To refuse to provide signed answers to requests for information, except as provided in this Chapter, or to refuse to answer any request for information on any ground prohibited under this Chapter.

(8) To violate any ordinance, statute or regulation on the licensed premises or on the adjacent grounds.

(9) To violate any condition or to permit the violation of any condition placed on a license issued under this Chapter.

(10) To permit anyone under the age of twenty-one (21) to be present on the licensed premises, except a patient under the age of twenty-one (21) who has a valid medical marijuana card.

(11) To permit anyone who is not an employee to enter the limited access area.

(12) To permit any employee to enter the limited access area without a visible employee badge.

(13) To conduct any cultivation, processing, packaging, display, sale or exchange of marijuana plants, harvested medical marijuana or medical marijuana infused products outside the licensed premises.

(14) To possess on the licensed premises of a medical marijuana center more than (6) medical marijuana plants or more than two (2) ounces of harvested medical marijuana for each patient who has registered the medical marijuana center as his or her primary center, except that the medical marijuana center may exceed these limits if a patient who has registered the medical marijuana center as his or her primary center has received a written recommendation from a physician licensed to practice in Colorado stating that the patient needs more medical marijuana to address his or her debilitating condition than these limits allow and the medical marijuana center has a copy of such physician statement in its books and records on the licensed premises.

(15) Violation of patient confidentiality.

a. It shall be unlawful to intentionally, knowingly, recklessly or negligently disclose any of the following information, in any form, concerning any medical marijuana patient, or to conduct any discussion, assessment or evaluation of the patient or the patient's records where any person may overhear or observe any of the following information:

1. The fact that the patient possesses, cultivates or uses medical marijuana or medical marijuana infused products or utilizes the services of a medical marijuana center;

2. The patient's diagnosis, prognosis or other information concerning the patient's physical, emotional or psychological condition;

3. The fact that the patient has a medical marijuana recommendation or the contents of the medical marijuana recommendation;

4. The form, type, quantity and frequency in which the patient purchases and uses medical marijuana or medical marijuana infused products; and

5. The efficacy of the medical marijuana or medical marijuana infused products in treating the patient's condition.

b. It shall not be a violation of this Section to disclose such information to:

1. Employees of the medical marijuana center with whom the patient has registered as a patient;

2. The physician who wrote the medical marijuana recommendation;

3. A law enforcement officer conducting an investigation concerning the violation of any law;

4. An employee of the State Department of Revenue, Medical Marijuana Enforcement Division or an employee of the City conducting an investigation of violations of Section 12-43.1-101, et seq., C.R.S., or this Chapter;

5. Any person to whom the patient has signed a release directing the release of the information; or

6. A court or an attorney conducting a deposition when compelled to testify or produce documents pursuant to a subpoena or other court order.

(16) To sell, give away or provide to any patient, or to any primary caregiver obtaining harvested medical marijuana or medical marijuana infused products on behalf of a homebound patient, more than the following quantities of harvested medical marijuana or medical marijuana infused products, or any combination thereof, within any twenty-four-hour period:

a. Two (2) ounces of medical marijuana, whether in the form of harvested medical marijuana, marijuana contained within a marijuana infused product or both; or

b. The quantity of harvested medical marijuana, marijuana contained within a marijuana infused product or any combination thereof, in excess of two (2) ounces specifically recommended in the physician's recommendation for medical marijuana obtained from a physician licensed to practice medicine in Colorado, when the person providing the same views and retains a copy of the physician recommendation for marijuana.

(17) To sell, give away or provide to any patient or to any primary caregiver obtaining medical marijuana on behalf of a homebound patient, more than the following quantities of live medical marijuana plants within any thirty-day period:

a. Six (6) plants; or

b. The quantity of live marijuana plants in excess of six (6) plants specifically recommended in the physician's recommendation for medical marijuana obtained from a physician licensed to practice medicine in Colorado when the person providing the same views and retains a copy of the physician recommendation for marijuana.

(18) To transport any quantity of medical marijuana without carrying with the medical marijuana a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest showing the following information:

a. The weight and volume of marijuana carried;

b. A description of the make, model and VIN number of the vehicle carrying the medical marijuana;

c. The name and address of the driver of the vehicle;

d. The name and address of the licensed medical marijuana facility from which the medical marijuana originated;

e. The name and address of the licensed medical marijuana facility to which the medical marijuana is being delivered;

f. The date and time that the marijuana departed the licensed medical marijuana facility where the marijuana originated; and

g. The intended route from source to the destination. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §7, 9-27-10; Ord. No. 8369 §6, 7-11-11)

Sec. 11-10-704. Penalties.

Any person who violates any provision of this Chapter or fails, neglects or refuses to perform any act required under this Chapter shall, upon conviction therefor, be punished by a fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than one (1) year, or both such fine and imprisonment. (Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §8, 9-27-10)

CHAPTER 11

Retail Marijuana

Article I
General

Sec. 11-11-101. Findings and purpose.

City Council finds that the cultivation, possession, sale and use of retail marijuana may be harmful to public health, safety and welfare if not carefully regulated. This Chapter is designed to protect public health, safety and welfare from the potential adverse effects of retail marijuana, while permitting retail marijuana to be cultivated, manufactured, tested, possessed, sold and used in accordance with law. City Council further finds and declares that the subject matter of this Chapter is a matter of local and municipal interest.

Sec. 11-11-102. Incorporation of general licensing provisions.

The provisions of Chapter 1, Title IX, Pueblo Municipal Code, shall apply to this Chapter except where they may be inconsistent with the provisions of this Chapter.

Sec. 11-11-103. Definitions.

The following definitions shall apply throughout this Chapter:

(1) The definitions contained in Article XVIII, Section 16, Colorado Constitution and Section 12-43.4-103, C.R.S., shall apply to this Chapter except where this Chapter provides a different definition or the context of this Chapter makes it clear that the statutory or constitutional definition does not apply.

(2) *Adjacent grounds*: means all areas that the licensee has a right to possess by virtue of his or her ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers and security devices.

(3) *Approve a license*: means to find that the requirements for a license have been met, but does not give the applicant the right to operate a retail marijuana facility until the license is issued.

(4) *Authority*: means the Pueblo Retail Marijuana Licensing Authority.

(5) *Character and record*: includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, medical marijuana licenses, retail marijuana licenses or other licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager or employee; education, training, experience, civil judgments, truthfulness, honesty and financial responsibility. The conviction of any person for any offense shall not, in itself, be grounds for a finding of bad character and record if such person demonstrates that he or she has been rehabilitated, but rehabilitation shall not be considered if a provision in this Chapter declares that the offense is a per se disqualification.

(6) *Complaint*: means a document filed with the Authority by the City, any of its Departments or the Authority itself, seeking sanctions against a retail marijuana license.

(7) *Contiguous*: means located within the same building as the retail marijuana establishment, located in a separate building on the same parcel of land as the retail marijuana establishment, or located in a separate building on a separate parcel of land that is

adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the retail marijuana establishment is located.

(8) *Employee*: means the licensee's or proposed licensee's employees.

(9) *Financier*: means any person lending, paying or providing funds, directly or indirectly, to pay any part of the costs of: (a) operating the retail marijuana facility, including but not limited to the costs of rent, mortgage payments, utilities, debt payments, supplies, product, equipment, advertising, vehicles, salary and wages; or (b) purchasing an ownership interest, in any form, in the licensee business.

(10) *Harm or harmful to public health, safety or welfare*: means any matter that adversely affects the health, safety or welfare of any person or group of persons within the City of Pueblo or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, loitering, litter, parking and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, manufacturing, testing, processing, smoking or ingestion of retail marijuana and retail marijuana products, when performed lawfully, shall not in itself be considered harmful to public health, safety and welfare.

(11) *In public*: means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds. The term includes persons in motor vehicles located in a public place.

(12) *Issue a license*: means to finalize the license after a previous approval of the license, and may or may not occur after approval of the license, depending on any completions, inspections, approvals or conditions that the Authority may require to be satisfied before issuance. Issuance gives the licensee the right to operate a retail marijuana establishment, provided that the licensee also obtains a State license.

(13) *Licensee*: means the person or entity holding a retail marijuana license under this Chapter.

(14) *Licensed premises*: means the area inside a building in which the cultivation, manufacture, testing, processing, infusion, possession, weighing, display, packaging, sale and exchange of retail marijuana or marijuana infused products is licensed under this Chapter.

(15) *Marijuana or retail marijuana*: except where the context clearly indicates otherwise, means growing marijuana plants, harvested marijuana in any condition and retail marijuana products of all kinds.

(16) *Retail marijuana establishment*: means a retail marijuana cultivation facility, a retail marijuana products manufacturer or a retail marijuana testing facility.

(17) *Retail marijuana license*: means any of the licenses described in Section 11-11-302 of this Chapter.

(18) *Operate or operation*: means the matters described in Section 11-11-307(a)(3) and
(a)(4) of this Chapter.

(19) *Permit*: when used as a verb means to:

a. Participate in or contribute to an act, conduct or omission;

b. Consent to or condone an act, conduct or omission;

c. Know or have reason to know that an act, conduct or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take reasonable steps to halt, thwart or prevent the same; or

d. Ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.

(20) *Person*: means any natural person or any entity.

(21) *Principal*: means:

a. In the case of any entity, including any general or limited partnership, corporation, limited liability company or other entity: any person who has an interest in the ownership of the entity; any person who has the day to day authority to or actually does manage the entity any person who responsible for the entity's finances.

b. In the case of a corporation: the president, vice-president, secretary, chief executive officer, chief financial officer and any person who holds or owns the capital stock of the corporation.

c. In the case of a limited liability company: any manager or member of the limited liability company.

d. In the case of a sole proprietorship, the individual owner.

(22) Serious traffic offense: means any driving offense carrying eight points or more under Section 42-2-127, C.R.S., or the substantial equivalent of such offense in any other State.

Sec. 11-11-104. Time.

The word “days” as used in this Chapter means calendar days.

Sec. 11-11-105. Certain confidential matters not public records.

(a) The following materials contained in the files and records of the Authority and the City shall be confidential and shall not be public records:

(1) The records described in Section 11-11-319 of this Chapter;

(2) The results of the inspection of books, records and audits conducted under Section 11-11- 320 of this Chapter;

(3) The results of inspections conducted under Section 11-11-321 of this Chapter;

(4) Responses to requests for information made under Section 11-11-322 of this Chapter;

(b) The confidentiality of the matters described in Subsection (a) of this Section shall not prevent any City or State employee from accessing and reviewing such records if necessary or desirable as part of their assigned duties.

Sec. 11-11-106. No private duties, cause of action or remedies.

Nothing contained in this Chapter shall be construed as creating, directly or indirectly, any duty between private persons, a private cause of action or any private legal remedy.

Sec. 11-11-107. Construction and severability.

Any court of competent jurisdiction construing or applying this Chapter shall seek a saving construction and application that makes the provisions of this Chapter constitutional and legal. In the event that any court of competent jurisdiction determines that any provision in this Chapter violates any constitutional, statutory or other right, despite the court's saving construction and application, the Court shall strike the unlawful provision only and sever the same from the remainder of this Chapter, which shall remain valid and effective.

Article II
Retail Marijuana Licensing Authority

Sec. 11-11-201. Licensing authority.

City Council shall by resolution appoint a Board to serve as the Retail Marijuana Licensing Authority.

Sec. 11-11-202. Members of Board.

(a) The Board appointed by City Council to serve as the Authority shall consist of five (5) members, who shall be residents of the City. Five (5) members shall be initially appointed for staggered terms expiring on the first day of July as follows: one (1) member for a one-year term, one (1) member for a two-year term, one (1) member for a three-year term, and two (2) members for four-year terms. Thereafter, each member shall be appointed for a term of four (4) years. At the Board's first regular meeting and on the anniversary of the first meeting and each year thereafter, the Board shall appoint one (1) of its members to act as Chair of the Board. The City Council shall make an appointment for any unexpired term in the event a vacancy arises.

(b) Any member of the Board may be removed by the City Council for nonattendance to duty or for cause. Any member who fails to attend three (3) consecutive meetings of the Board shall be removed from the Board, unless the City Council excuses any such absences.

Sec. 11-11-203. Powers of Authority.

(a) The Authority shall have the following powers:

(1)To issue or deny Retail marijuana licenses and renewals of the same within the City.

(2)To impose sanctions on any license issued by the Authority on its own motion or on complaint by the City for any violation by the licensee after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard.

(3)To issue approvals and disapprovals as provided in this Chapter.

(4)To conduct hearings, grant or deny motions, make findings and orders, administer oaths, and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which it is authorized to conduct.

(5) To control the mode, manner and order of all proceedings and hearings.

(6) To adopt rules, procedures and policies for its own proceedings.

(7) To adopt rules and policies for filing applications and requests.

(8) To adopt application forms and submission requirements, including a requirement that applications, complaints and other documents be filed in a digital format approved by the Authority and to refuse applications, complaints and other documents not filed in the approved digital format.

(9) To perform any act that the Authority is authorized to perform under this Chapter.

(10) To perform any other act that may be implied or necessary to carry out any act that the Authority is authorized to perform under this Chapter.

(b) In the event that any person, in the immediate presence of the Authority or within its sight or hearing, while the Authority is in session during a hearing, commits a direct contempt of the Authority by speech, gesture or conduct which disobeys a lawful order of the Authority, shows gross disrespect to the Authority tending to bring the Authority into public ridicule, or substantially interferes with the Authority's proceedings, the Authority may hold such person in contempt. Contemptuous conduct by any principal, registered manager or employee shall be imputed to the licensee.

(c) The Authority may impose the following sanctions for contempt:

(1) Removal of the person committing the contempt from the proceedings, the hearing room and its environs;

(2) Public censure, which shall be made a matter of the licensee's record and may be used as an aggravating factor in determining any fine, suspension or revocation;

(3) A prohibition against the individual or licensee introducing into the record testimony, documents, exhibits or other evidence;

(4) An order striking, disregarding and refusing to consider pleadings, applications, documents, objections, testimony, exhibits or other evidence or arguments already introduced by such person;

(5) A fine, enforced by suspension of the license until the fine is paid;

(6)Default of any motion, complaint or other action then pending against the licensee; or

(7)Denial of any application by the licensee then pending before the Authority.

Sec. 11-11-204. Quorum and majority vote.

A majority of the Board shall constitute a quorum for the conduct of its business. All decisions of the Board shall be by majority vote of the Board members present at a meeting where a quorum has been established.

Sec. 11-11-205. Appeal of Authority decisions.

Actions taken by the Authority are subject to review by the Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Review must be applied for within twenty eight (28) days after the date of decision. Any person applying to the Court for review shall be required to pay the cost of preparing a transcript of proceedings before the Authority whenever such a transcript is necessary for purposes of the appeal.

Article III
Licenses

Sec. 11-11-301. Licenses and permit required.

(a) No person shall operate a retail marijuana establishment unless he or she has first obtained the following and maintains the same in full force and effect:

(1)A conditional use permit from the City for the location of the proposed licensed premises;

(2)The necessary City sales and use tax license and excise tax license;

(3)The necessary State sales and use tax license and excise tax license;

(4)Ownership of, or a lease in effect on, the proposed licensed premises;

(5)A City license to operate any other business that will be conducted on the licensed premises;

(6)A City license to operate a retail marijuana establishment; and

(7)A State license to operate a retail marijuana establishment.

(b) No person may apply for a license to operate a retail marijuana establishment until he or she has first met the requirements stated in (a)(1) through (5) of this Section.

Sec. 11-11-302. Classes of Retail marijuana licenses.

The Authority may issue the following licenses for retail marijuana establishments, granting the privileges described in Title 12, Article 43.4, C.R.S., subject to the requirements, conditions, qualifications, and limitations set forth in this Chapter:

(1) Retail marijuana cultivation facility;
(2) Retail marijuana products manufacturer; and
(3) Retail marijuana testing facility.

Sec. 11-11-303. Nature of license.

(a) Every license issued under this Chapter confers only a limited and conditional privilege subject to the requirements, conditions, limitations and qualifications of this Chapter and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited or completely extinguished at the discretion of City Council or the electorate of the City, as provided in this Chapter, without any compensation to the licensee.

(b) Every license approved or issued under this Chapter shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the options described in Section 16 (5) (f) of Article XVIII of the Colorado Constitution and Section 12-43.4-104 (3), C.R.S., and any other future ordinances adopted by a vote of the people of the City of Pueblo or City Council. Nothing contained in this Chapter grants to any licensee any vested right to continue operating under the provisions of this Chapter as they existed at the time the license was approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.

(c) In the event that the people of the City of Pueblo, by a majority of the registered electors of the City, at a regular or special election, or a majority of City Council, vote to prohibit by ordinance the licensing and operation of retail marijuana establishments within the City of Pueblo, pursuant to Section 16 (5) (f) of Article XVIII of the Colorado Constitution and Section 12-43.4-104 (3), C.R.S., then every license issued or approved under this Chapter, which is prohibited under such ordinance, shall be deemed void and the

operation of any retail marijuana establishment prohibited under the ordinance shall become illegal on the effective day of the ordinance.

(d) Every license is separate and distinct and is tied to a specific location with specific conditions. The license cannot be assigned, delegated, sold, inherited or otherwise transferred between persons or transferred to a different location, except as provided in this Chapter. No licensee shall exercise the privileges of any other license or delegate the privileges of its own license.

(e) The licenses issued under this Chapter consist of a limited and conditional privilege to operate a retail marijuana establishment, provided that the licensee also obtains a State license. The license certificate issued by the Clerk of the Authority is merely evidence that a license was issued and is not the license itself. Assignment or conveyance of the license certificate alone does not transfer any right to the license.

Sec. 11-11-304. Fees.

(a) Applicants shall pay the following fees to the City of Pueblo in addition to any fees payable to the State:

Application Fees

(1)Application packet for new license: $25.00.

(2) Application for new license for retail marijuana establishments:

(A) Licenses converted from medical marijuana businesses: $250.00 (to be received from the State of Colorado before the application is deemed complete).

(B) Licenses not converted from medical marijuana businesses: $2,500.00 (to be received from the State of Colorado before the application is deemed complete).

Operating Fees

(b) Operating fees and all other fees necessary for the administration, regulation, and implementation of this Chapter are as follows and are to be paid to the City of Pueblo, in addition to any fees payable to the State:

1. Initial Operating Fees are to be paid upon issuance of the initial license by the Authority:

(A) Retail Marijuana Cultivation Facility: $5,000.00 plus $.50 per square foot of the portion of the licensed premises in which plants are located but said Initial Operating Fee shall not exceed a total of $15,000.00.

(B) Retail Marijuana Product Manufacturing Facility: $6,000.00.

(C) Retail Marijuana Testing Facility: $1,500.00.

2. Administrative Operating Fees:

(A) Transfer of location: $750.00.

(B) Change of principals or ownership: $300.00.

(C) Change in operational plan: $300.00.

(D) Registration of manager: $100.00.

(E) Modification of premises: $400.00.

(F) Report of minor change: $100.00.

(G) Late renewal fee: $500.00.

(H) License extension fee: $150.00 for each 30 day period or portion thereof.

3. Annual Operating Renewal Fees are to be paid upon issuance of the annual license renewals by the Authority:

(A) Retail Marijuana Cultivation Facility: $5,000.00 plus $.50 per square foot of the portion of the licensed premises in which plants are located but said Annual Operating Renewal Fee shall not exceed a total of $15,000.00.

(B) Retail Marijuana Product Manufacturing Facility: $6,000.00.

(C) Retail Marijuana Testing Facility: $1,500.00.

(c) City Council may approve increases or decreases in the foregoing fees by Resolution.

(d) In addition to the foregoing fees, applicants and licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, other licensing, registration, fingerprinting, approval or permitting required under the Pueblo Municipal Code, State law or State regulations.

(e) The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general revenues. The fees provided in this Section shall be reasonably related and proportional to the costs of the services provided and shall not generate additional City revenue.

(f) If any license or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked or otherwise sanctioned, no part of the fees paid therefor shall be refunded to the applicant or licensee.

Sec. 11-11-305. Term of license.

Every license shall be valid for one (1) year from the date it is issued unless the license is earlier suspended or revoked.

Sec. 11-11-306. Relationship to Colorado Retail Marijuana Code and Coordination with State Retail Marijuana Licensing Authority and State requirements.

(a) Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code, C.R.S. 12-43.4-101 et seq. In the event of any conflict between the provisions of this Chapter and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, the more restrictive provision shall control.

(b) The Authority shall inform the State Retail Marijuana Licensing Authority of its investigations, inspections and all decisions approving new licenses, issuing new licenses, imposing conditions on licenses, renewing licenses, approving major changes in licenses, information regarding minor changes, and sanctions imposed on licenses.

(c) To the extent that such coordination is reasonably feasible and efficient, the Authority shall coordinate its investigations and actions with the State Department of Revenue, but the Authority reserves the right to act independently and to reach its own findings of fact, conclusions of law and administrative actions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of licenses and any other matter

related to licenses, without regard to the findings of fact, conclusions of law and administrative actions that the State may reach regarding the same licenses based on the same incident or conduct.

(d) The approval or issuance of a license under this Chapter shall not constitute a representation by the Authority that the licensee is qualified for or will receive a State retail marijuana license.

Sec. 11-11-307. Application for retail marijuana license.

(a) An applicant for a retail marijuana license shall submit to the Authority an application with the following information:

(1) Information required on the application forms prescribed by the State of Colorado;

(2) Information required on the application forms prescribed by the Authority, which may require any information, document or photograph relevant to any requirement for a license under State law or this Chapter, or relevant to any condition that may be imposed on the license; and

(3) An operational plan showing how the business, licensed premises and adjacent grounds will be operated, including but not limited to:

a. How and where marijuana or marijuana products will be cultivated, manufactured, tested, advertised, processed, stored, packaged, exhibited, purchased, exchanged and sold;

b. How the business, licensed premises and adjacent grounds will comply with each requirement contained in State law and City ordinances, especially this Chapter;

c. How the operation will reduce or mitigate adverse effects on the area in which it is situated, including but not limited to any adverse effects related to crime, traffic, parking, noise and lighting;

d. Hours of operation;

e. Number of employees;

f. Parking for employees and customers on the adjacent grounds;

g. Traffic flow into and out of the adjacent grounds;

h. Record keeping as required under State law and this Chapter; and

i. Procedures for identifying purchasers when making sales.

(4) A security plan that addresses:

a. Methods to prevent and protect employees and others from robberies and assaults on the licensed premises and adjacent grounds;

b. Methods to prevent burglaries on the licensed premises and adjacent grounds when the premises are closed;

c. Exterior lighting of the building and adjacent grounds;

d. Windows from the licensed premises providing a view from inside the licensed premises to the adjacent grounds;

e. Locks, burglar alarms and a safe or vault as required in this Chapter; and

f. A limited access area barrier, limited access area and employee badges for entering the limited access area as required under State law and this Chapter.

(b) The entire application shall be verified under oath by each principal in the applicant's business. The registered manager and employees shall verify under oath the portions of the application that pertain to each of them.

(c) The applicant shall submit to the Authority the original application and five (5) copies of the application. The Authority shall provide copies to the Police Department, the City's Department of Planning and Community Development and the City's Law Department.

(d) An applicant shall not submit its application, and the Authority shall not accept the same, until the application is complete with all required information and necessary documents attached, in clear and legible form, assembled in good order, and with all required copies. The applicant shall certify that the application is complete, and the Authority or the Authority's Clerk shall review the application to determine that it appears to be complete before accepting same.

(e) The determination by the Authority or its Clerk that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Chapter for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the Authority may note concerns or deficiencies in the application and its contents in the Authority's determination and findings after conducting its administrative review of the application as provided in Section 11-11-311 of this Chapter.

(f) After an application is accepted as complete, it may be amended or supplemented in writing before the application is set for hearing, but each amendment or supplement shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment or supplement that pertain to each of them. The applicant shall submit to the Authority the original of each amendment or supplement and five (5) copies. The Authority shall provide copies to the Police Department, the City's Department of Planning and Community Development and the City's Law Department.

(g) After the application is set for hearing, the application shall not be amended or supplemented and the Authority shall rule on the application as it exists at the time the hearing is set.

Sec. 11-11-308. Requirements to obtain and retain a Retail marijuana license.

In order to obtain a license, the applicant shall demonstrate by a preponderance of the evidence to the Authority that the following requirements are satisfied:

(1) General requirements.

a. The applicant has obtained a conditional use permit from the City for the location of the proposed licensed premises;

b. The applicant has obtained the necessary City sales and use tax license and excise tax license;

c. The applicant has obtained the necessary State sales and use tax license and excise tax license;

d. The applicant has obtained a City license for any other business activity that will be operated on the licensed premises;

e. The applicant has submitted an application for a license that the Clerk to the Authority has determined is complete; and

f. The applicant has paid all fees required under this Chapter.

(2) Personal requirements for the licensee, principals, registered manager and employees.

a. The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.

b. The applicant, principals, registered manager and employees are all over the age of twenty-one (21).

c. The applicant, principals, registered manager and employees have not been determined by any retail marijuana licensing authority, any other licensing board within the State or the Colorado Department of Revenue to not be persons of good character and record within the preceding three (3) years.

d. The applicant, principals, registered manager and employees have not discharged a sentence for a conviction of a felony in the five (5) years immediately preceding the application. This shall constitute a per se and complete disqualification. Rehabilitation shall not be considered.

e. The applicant, principals, registered manager and employees have not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer; except that the licensing authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for licensure. This shall constitute a per se and complete disqualification. Rehabilitation shall not be considered.

f. The applicant, the applicant's financiers, principals, registered manager, and employees are persons of good character and record. When making any determination as to good character and record, the Authority may consider whether an applicant, principal, registered manager or employee has rehabilitated himself after committing a crime or other act or omission tending to indicate that such person is not a person of good character, but rehabilitation shall not be considered when the crime or other disqualifying act or omission is declared a per se disqualification under this Chapter. Notwithstanding any other burden for proof stated in this Chapter, the burden of proof to show that a person has been rehabilitated shall be beyond a reasonable doubt and shall be placed on the individual whose character is at issue. When evaluating claims of rehabilitation, the Authority shall consider the following factors:

1. The facts of the specific crime or other act tending to show a bad character and record;

2. Whether the specific crime or other act tending to show bad character and record involved controlled substances, dishonesty, fraud, bad faith, moral turpitude or violence;

3. Whether the specific crime or other act tending to show bad character and record involved a felony, misdemeanor, municipal offense, a civil wrong or other wrongful conduct;

4. Whether the specific crime or act caused injury or harm to other persons or entities and the extent of such harm or injury;

5. The length of time that has expired since the act or omission was committed;

6. Whether the person has led a law abiding life and has demonstrated good character since the act or omission was committed;

7. Whether the person has committed other acts tending to indicate bad character since the act or omission was committed;

8. Restitution, damages and compensation that the person has paid to persons victimized by the act or omission;

9. Fines, jail sentences, probation, community service and other penalties paid or served since the act was committed; and

10. Any other factor tending to show that the person has or has not rehabilitated his or her character and conduct.

g. The applicant, principals, financiers and registered manager have not held an interest in any liquor license, medical marijuana license, retail marijuana license or other license issued by any City, County or State that has been revoked, suspended, or fined within the preceding two (2) years.

h. The applicant, principals, financiers and registered manager have not had their authority, if any, to act as a medical marijuana primary caregiver revoked by the State within the preceding two (2) years.

i. The applicant, principals, financiers and registered manager are not in default on any City, county, state or federal taxes, fees, fines or charges, do not have

any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.

j. The applicant, principals and registered manager are not in default on any student loan.

k. The applicant, principals, registered manager and employees are trained or experienced in, and able to comply with, the requirements of this Chapter and state law pertaining to retail marijuana establishments. In determining whether such persons have shown sufficient training or experience, the Authority shall consider, among other things, the following factors:

1. The role that the individual will play in operating the establishment;

2. Previous experience operating retail marijuana establishments;

3. Completion of state or industry-approved courses on how to comply with Colorado laws and regulations regarding retail marijuana establishments; and

4. The individual's understanding of state law and City ordinances regulating retail marijuana as shown under questioning by the Authority at the hearing.

l. The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations for retail marijuana issued by the State of Colorado.

m. The applicant, principals and registered manager do not have any orders or judgments against them for child support in default or arrears.

n. The applicant, principals and registered manager are not peace officers or prosecuting attorneys.

o. If the licensee or principals already hold one retail marijuana license in the City of Pueblo, and the application is for another retail marijuana license of the same class, issuance of the second license will not significantly restrain competition among licensees of that class.

(3) Location and other licensing of premises.

a. The proposed licensed premises and adjacent grounds meet all requirements for issuance of a State license.

b. The proposed licensed premises are located in a fixed, nonportable building.

c. The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Section 12-47-103(2), C.R.S., or as a massage parlor, a dance hall or an amusement establishment as defined in Title IX, Pueblo Municipal Code.

d. The premises are not licensed or operated as a retail food establishment or wholesale food registrant.

(4) Control, security and code compliance of premises.

a. The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.

b. The proposed licensed premises have a suitable limited access area where the cultivation, manufacturing, testing, display, storage, processing, weighing, handling and packaging of retail marijuana and marijuana products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.

c. The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Police Department, showing at least the following security measures:

1. All doors, windows and other points of entry have secure and functioning locks;

2. A locking safe or enclosed metallic storage vault located inside the proposed licensed premises in which any harvested retail marijuana and retail marijuana products will be secured when the licensed premises are not open to the public;

3. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two premises that can be locked from the licensee side and cannot be opened from the other side;

4. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the proposed licensed premises; and

5. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that persons entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.

d. The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the City's Department of Planning and Community Development, Regional Building Department, Pueblo Fire Department and Pueblo City-County Health Department.

e. There is sufficient parking available on the proposed adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.

f. The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause any substantial harm to public health, safety and welfare.

(5) Requirements specific to a retail marijuana cultivation facility license.

a. The area of the proposed licensed premises utilized for cultivation is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person. The ventilation system must be inspected and approved by the Pueblo Regional Building Department.

b. Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation.

c. No portion of the building in which the proposed licensed premises are located is utilized as a residence.

(6) Requirements for premises that are not completed.

a. If the proposed licensed premises have not been completed, inspected and approved as required in this Chapter at the time of the hearing for a new license or a

hearing on transfer of an existing license to a new location, the applicant shall submit to the Authority:

1. A recorded deed to the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Chapter when completed and inspected.

b. The Authority may approve the license before the proposed licensed premises are completed, inspected and approved, but shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Chapter have been obtained and submitted to the Authority.

c. In the event that the license is approved, but the premises are not completed, inspected and approved as required in this Chapter within one hundred twenty (120) days of approval, the approval shall lapse and the license shall not be issued.

(7) Requirements of this Section also apply to licensees; continuing duty.

a. The requirements of this Section imposed on any applicant shall also apply to any licensee. The requirements of this Section imposed on any proposed licensed premises, proposed adjacent grounds or proposed location shall also apply to the actual licensed premises, actual adjacent grounds and actual locations, respectively.

b. Every licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.

Sec. 11-11-309. Good cause for denial of new license, denial of renewal or sanctions.

The Authority may deny a new application, deny renewal of a license or impose sanctions on a retail marijuana license previously approved or issued if the Authority finds, by a preponderance of the evidence at a hearing, or upon the admission or stipulation of the applicant or licensee, that any of the following have occurred:

(1) The licensee, principals, registered manager, employees, the licensed premises or the adjacent grounds do not meet or no longer meet one (1) or more of the requirements of Sections 11-11-301 or 11-11-308 of this Chapter, any other provision of Pueblo Municipal Code, State law or State regulations;

(2) The licensee has failed to obtain any State license, certification, registration or approval, or meet any other requirement imposed by State law or regulations;

(3) The licensee, principals, registered manager or employees have committed or attempted to commit any violation of any City ordinance, State statute or State regulation or have permitted others to violate the same on the licensed premises or adjacent grounds or on other licensed premises or adjacent grounds;

(4) The licensed premises have been operated in a way that substantially deviates from the operational plan approved by the Authority;

(5) The licensed premises or adjacent grounds have been operated in a way that substantially harms the public health, safety or welfare;

(6) A check, credit card, debit card or other payment for any tax, fee, fine, fine in lieu or other sum due to the City from the licensee has been stopped or rejected for insufficient funds, closed account or similar reasons;

(7) Any tax, fee, fine, fine in lieu of suspension or other sum due to the City from the licensee is unpaid and more than thirty (30) days in default; or

(8) The licensed premises have not been operated for more than one (1) year.

Sec. 11-11-310. Review of application for new license, determination and findings.

(a) Within ninety (90) days following the date that the Clerk to the Authority or the Authority itself accepts an application for a new retail marijuana license as complete, the Authority shall review the application administratively and issue its determination and findings. The Authority's administrative determination and findings shall:

(1)State that the application appears to show a prima facie case for approval of a license, state any concerns that the Authority may have, and direct the applicant to set a hearing under Section 11-11-311; or

(2)State that the application does not appear to show a prima facie case for approval of a license, state the deficiencies, and indicate that the applicant has a right to set the matter for a hearing under Section 11-11-311.

(b) The Authority shall notify the applicant in writing of its administrative determination and findings by first-class U.S. mail addressed to the applicant at the address shown on the application.

(c) If the administrative determination provided in this Section states that the application appears to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of the date the Authority mailed its administrative determination and findings to the applicant, pursue one of the following options, and failure to do so shall constitute a withdrawal of the application:

(1)Set the application for a hearing under Section 11-11-311 as provided in Section 11-11-501 of this Chapter; or

(2)Request from the Authority in writing a continuance of the setting of the hearing under Section 11-11-311 for no more than sixty (60) days from the date the Authority mailed its administrative determination and findings to the applicant, in order to satisfy any concerns stated in the administrative determination and findings, if any. Failure of the applicant to set the application for a hearing within sixty (60) days the date the Authority mailed its administrative determination and findings to the applicant, in the manner provided in Section 11-11-501 of this Chapter, shall constitute a withdrawal of the application.

(d) If the administrative determination provided in this Section states that the application does not appear to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of date the Authority mailed its administrative determination and findings to the applicant, pursue one of the following options, and failure to do so shall constitute a withdrawal of the application:

(1)Set the application for a hearing under Section 11-11-311 as provided in Subsection 11-11-501 of this Chapter; or

(2)Request from the Authority in writing a continuance of the setting of the hearing under Section 11-11-311 for no more than one hundred twenty (120) days from the date the Authority mailed its administrative determination and findings to the applicant, in order to satisfy the deficiencies stated in the administrative determination and findings. Failure of the applicant to set the application for a hearing within one hundred twenty (120) days from the date the Authority mailed its administrative determination and findings to the applicant, in the manner provided in Subsection 11-1-501 of this Chapter, shall constitute a withdrawal of the application.

(e) Withdrawal of an application under this Section shall not constitute a denial of the application under Section 11-11-308 and shall not prevent the applicant from re-submitting its application upon payment of a new application fee.

(f) The determination and findings made on the Authority's administrative review of the application under this Section shall not be binding on the Authority or any person who has standing at a hearing under Section 11-11-311 of this Chapter, and any matter that the

administrative determination and findings state has been met, has not been met, or which the determination and findings do not address, may be addressed in full at the hearing.

Sec. 11-11-311. Hearing on application for new license or the denial of a new retail marijuana license.

(a) Before approving or issuing any retail marijuana license, and upon request of any applicant whose application has been denied administratively for failure to show a prima facie case for approval of a license, the Authority shall hold a hearing at which it shall hear evidence relevant to:

(1)Whether the applicant has met the requirements necessary to obtain a retail marijuana license in Sections 11-11-301 and 11-11-308 of this Chapter;

(2)Whether there is good cause for denial of the license as defined in Section 11-11-309 of this Chapter; and

(3)Whether conditions should be imposed on the license as provided in Section 11-11-312 of this Chapter.

(b) The issues at the hearing shall be limited to the foregoing and shall not include whether persons favor or approve of retail marijuana or favor or oppose retail marijuana licenses in general.

(c) If the Authority finds at the hearing that the applicant has shown by a preponderance of the evidence that it has met the requirements necessary for issuance of a retail marijuana license and that there is no good cause to deny the license, the Authority shall approve the license or approve the license with conditions as provided in Section 11-11-312 of this Chapter. If the licensed premises and adjacent grounds have been completed, inspected and approved as provided in this Chapter, the Authority shall issue the license forthwith. If not, the Authority shall withhold issuance of the license until the applicant demonstrates that the licensed premises have been completed in substantial compliance with the plans, specifications and drawings previously submitted and approved, and the licensed premises have been inspected and approved as provided in this Chapter. In the event that the licensed premises are not completed, inspected and approved within one hundred twenty (120) days of the approval, the approval shall lapse and the license shall not be issued.

(d) If the Authority finds at the hearing that the applicant has not shown by a preponderance of the evidence that it has met the requirements for issuance of a retail marijuana license or has failed to show by a preponderance of the evidence that there is no good cause to deny the license, the Authority shall deny the license.

Sec. 11-11-312. Conditions on licenses.

(a) At the time that a new license is first approved, when an existing license is renewed, at any time that a sanction other than revocation is imposed, or at any time that the Authority approves a major change to a license, licensed premises or adjacent grounds, the Authority may impose on the license, after a hearing, any condition related to the license, licensed premises or adjacent grounds, that is reasonably necessary to protect public health, safety, or welfare, including but not limited to the following:

(1) Additional security requirements, including but not limited to security guards, steel doors, steel window coverings and surveillance cameras;

(2) Additional record keeping requirements;

(3) Limits and requirements on parking and traffic flow;

(4) Requirements for walls, doors, windows, locks and fences on the licensed premises and adjacent premises;

(5) Requirements and limits on ventilation and lighting;

(6) Limits or requirements on areas on the licensed premises that are closed, locked or not open to public view;

(7) Limits on noise inside the licensed premises or on the adjacent grounds;

(8) Prohibitions on certain conduct on the premises;

(9) Sanitary requirements;

(10) Limits on hours of operation;

(11) Requirements for screening new and existing employees;

(12) A requirement that the licensee temporarily close the licensed premises until certain changes, inspections or approvals are made; and

(13) A limit on the square footage of the licensed premises.

(b) The Authority may impose the foregoing conditions in lieu of or in addition to any sanctions that it may impose, except where the sanction is revocation.

(c) Any condition imposed on a license shall be placed on the face of the license certificate.

Sec. 11-11-313. License certificate; posting of license certificate and notices on licensed premises.

(a) After the Authority issues a license, the Clerk of the Authority shall issue to the licensee a certificate evidencing issuance of the license. The license certificate shall state the date issued, the term of the license, the name of the licensee, the address of the premises, conditions on the license and the following:

> THIS LICENSE CONFERS ONLY A LIMITED AND CONDITIONAL PRIVILEGE SUBJECT TO THE REQUIREMENTS, CONDITIONS, LIMITATIONS AND QUALIFICATIONS OF THE PUEBLO MUNICIPAL CODE, AS AMENDED, AND STATE LAW. THIS LICENSE DOES NOT CONFER A PROPERTY RIGHT OF ANY KIND. THE LICENSE AND THE PRIVILEGE CREATED BY THE LICENSE MAY BE FURTHER REGULATED, LIMITED OR COMPLETELY EXTINGUISHED BY THE CITY WITHOUT ANY COMPENSATION TO THE LICENSEE. THIS LICENSE IS SUBJECT TO THE FUTURE EXERCISE OF THE OPTIONS DESCRIBED IN SECTION 16 (5) (f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION AND SECTION 12-43.4-104 (3), C.R.S., AND OTHER FUTURE ORDINANCES PASSED BY THE PEOPLE OF THE CITY OF PUEBLO OR CITY COUNCIL. THE HOLDER OF THIS LICENSE SHALL BE SUBJECT TO ANY ORDINANCE OR PROHIBITION PASSED AFTER THE LICENSE WAS APPROVED OR ISSUED. IN THE EVENT THAT THE PEOPLE OF THE CITY OF PUEBLO, BY A MAJORITY VOTE OF THE REGISTERED ELECTORS OF THE CITY, AT A REGULAR OR SPECIAL ELECTION, OR A MAJORITY OF CITY COUNCIL, VOTE TO PROHIBIT BY ORDINANCE THIS TYPE OF LICENSE AND THE OPERATION OF THIS TYPE OF RETAIL MARIJUANA ESTABLISHMENT WITHIN THE CITY OF PUEBLO, PURSUANT TO SECTION 16 (5) (f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION AND SECTION 12-43.4-104 (3), C.R.S., THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS RETAIL MARIJUANA ESTABLISHMENT SHALL BE ILLEGAL ON THE EFFECTIVE DAY OF SUCH ORDINANCE.

(b) The licensee shall post the following on the licensed premises in a prominent place where persons can easily view and read while standing in a location accessible to the public:

(1)The license certificate issued by the State, along with any conditions on the same.

(2)The license certificate issued by the Authority, along with any conditions on the same.

(3)A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS RETAIL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES)

(4)A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS RETAIL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE PUEBLO POLICE DEPARTMENT AT: 553-2538.

(c) The licensee shall post the following on the licensed premises in a prominent place near other notices to employees, where the licensee, principals, registered manager and employees can easily view the same: a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS AND EVERY ROOM, AREA, LOCKER, SAFE AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY CITY EMPLOYEES AND POLICE OFFICERS AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION AND YOUR PRIVATE VEHICLE.

Sec. 11-11-314. Registered manager.

Every licensee shall designate one (1) registered manager and delegate to the registered manager authority over the day to day operations of the licensee and the

responsibility to ensure that the licensed premises and adjacent premises are operated in compliance with this Chapter.

Sec. 11-11-315. Major changes to license, licensed premises or adjacent grounds requiring approval of the Authority.

(a) No licensee shall make any of the following changes without first obtaining the written approval of the Authority:

(1) Any transfer of the license or any ownership interest in the licensee entity or license;

(2) Any change in location of the licensed premises;

(3) Any change in the licensee's principals or financiers;

(4) The hiring, substitution, resignation, replacement or termination of the registered manager;

(5) Any change in ownership of any of the stock of the licensee corporation;

(6) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, surveillance system, doors, window coverings or security system at the licensed premises;

(7) Any material change to the adjacent grounds, including but not limited to lighting, parking, traffic flow through and the adjacent grounds surfaces, landscaping, fences, speakers or sound; and

(8) Any material change in or deviation of the operation from the operational plan submitted at the time that the license was approved.

(b) The Authority shall require a public hearing before approving any change of location.

(c) The Authority may summarily approve all other proposed major changes or hold a public hearing on the same, in the Authority's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause any substantial harm to public health, safety or welfare.

(d) At any hearing regarding any of the foregoing changes, the Authority shall determine whether the proposed change would probably cause substantial harm to public

health, safety or welfare or result in a violation of any law or regulation. If the Authority finds that the change will probably not cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation, it shall approve the change. If the Authority finds that the proposed change would, more probably than not, harm public health, safety or welfare or result in a violation of any law or regulation, the Authority may either disapprove the proposed change or impose conditions on the license.

(e) No application for transfer of ownership, transfer of location or other major change may be applied for or acted upon while any complaint for sanctions is pending with the Authority or the State.

(f) The transfer of a license to a new owner does not constitute a new license. The transferee of a license or ownership interest in a license takes transfer of such license or interest subject to the conditions, waivers, history, record and sanctions imposed on that license under the previous ownership of the license. The fact that the license is owned by new persons or entities shall not preclude the Authority from considering the history, record and past sanctions imposed on the license under previous ownership when the Authority considers new sanctions for violations committed under new ownership of the license.

Sec. 11-11-316. Reports of minor changes.

Every licensee shall report the following to the Authority, in writing within ten (10) days of such event:

(1) Any change in the licensee's trade name, trademark, logo or service mark used at the licensed premises, adjacent grounds, on any product cultivated or manufactured at the licensed premises;

(2) Any change in the labeling or packaging of products cultivated or manufactured at the licensed premises;

(3) Any new financiers or debts that the licensee or its principals may incur that are related to the licensed premises, adjacent grounds or any ownership interest in the licensee, in a single or cumulative amount greater than ten thousand dollars ($10,000.00);

(4) Any charges filed against or any conviction of any principal, registered manager or employee for any felony, misdemeanor or serious traffic offense, including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law;

(5) Any change to any sign on the licensed premises or adjacent grounds; and

(6) The hiring, dismissal or resignation of any employee.

Sec. 11-11-317. Renewal of license.

(a) A licensee may renew its license by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of his or her license at least thirty (30) days before expiration of the license, the license shall expire.

(b) A licensee may renew a license that has expired if:

(1)The license has expired less than ninety (90) days; and

(2)The licensee pays the annual operating renewal fee and an additional five hundred dollars ($500.00) late fee.

(c) In the event that an application for renewal has been filed at least thirty (30) days before the expiration of the previous license, but the Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Authority rules on the application for renewal, but in no event may the license be extended more than ninety (90) days under this Subsection. The licensee shall pay a license extension fee for any such extension.

(d) The Authority may hold a hearing on any application for renewal. The Authority may summarily grant an application for renewal without a hearing if it appears from the application and other information that the licensee is:

(1)In compliance with this Chapter;

(2)There have not been any significant changes in the licensee, the principals, the licensed premises, the adjacent grounds or the registered manager previously approved; and

(3)There is no reason to believe that there are any grounds for sanctions or denial of the license.

(e) The Authority shall set a public hearing on the application for renewal if it finds that there is probable cause to believe that the licensee is:

(1)Not in compliance with this Chapter or has committed violations of this Chapter; or

(2)There is probable cause to believe that there are grounds for sanctions as provided in this Chapter;

(3) There have been any major changes described in Section 11-11-315 of this Chapter or any unreported minor changes described in Section 11-11-316 of this Chapter.

(f) The fact that the Authority has granted a renewal of a license shall not constitute a waiver of any previous violations and shall not stop or bar the City from seeking sanctions for, or the Authority from imposing sanctions for, any violation that occurred during any license period before the renewal.

Sec. 11-11-318. Trade names, trademarks, logos, labels, packaging and advertising.

(a) It shall be unlawful for any licensee to use any logo, trademark, trade name, sign or advertising using the word "marijuana," "cannabis," any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana.

(b) Nothing contained in this Section shall be construed as creating a prior restraint on speech or press. The Authority shall not require an applicant or licensee to obtain any approval or license from the Authority before using any logo, trademark, trade name, sign or advertising. Nothing contained in this Subsection shall prevent the City from taking civil, administrative or criminal action against any person or license after any logo, trademark, trade name, sign or advertising has been used.

(c) Any court of competent jurisdiction construing or applying this Section shall seek a saving construction and application that makes the Section constitutional. In the event that any court of competent jurisdiction determines that any provision in this Section violates any right that any person may have to free speech or press, despite the Court's saving construction and application, the Court shall strike this Section only and sever the same from the remainder of this Chapter, which shall remain valid and effective without this Section.

Sec. 11-11-319. Books and records.

Every licensee shall maintain on the licensed premises, at any time that any person is present on the licensed premises, accurate and up to date books and records of the business operations of the licensee, or an authentic copy of the same, including but not limited to the following:

(1) Lists, manifests, orders, invoices and receipts for all marijuana, marijuana plants and marijuana products cultivated, harvested, manufactured, tested, processed, produced, delivered, purchased, stored, sold and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type,

quantity, weight and purchaser and whether each transaction involved harvested marijuana, live plants, marijuana products or seeds;

(2) An inventory of all marijuana and marijuana products presently on the licensed premises;

(3) Sales and use taxes and excise taxes collected and paid; and

(4) The name, address and a copy of the retail marijuana license of any retail marijuana licensee with whom the licensee has transacted any business, including but not limited to any purchase, sale, or exchange of marijuana plants, harvested marijuana or marijuana products.

Sec. 11-11-320. Inspection of books and records; audits.

(a) Any law enforcement officer may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 11-11-319 of this Chapter, at any time that anyone is present inside the licensed premises.

(b) Upon five (5) days written notice, the licensee shall provide the books and records of the licensee for inspection and auditing by the City.

Sec. 11-11-321. Inspection of licensed premises and adjacent grounds.

(a) Every licensed premises and adjacent grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, sales, use and excise tax officials and health department officials at any time that anyone is present in the licensed premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.

(b) The licensee, principals, registered managers and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers or containers on the licensed premises and adjacent grounds, except as provided in this Section.

(c) Licensees, principals, registered managers and employees on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy with regard to their persons, the personal effects in their immediate possession, and their own motor vehicles on the licensed premises and adjacent grounds, to the extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, safes, lockers, containers or objects on the licensed premises or adjacent grounds.

Sec. 11-11-322. Requests for information.

(a) The Authority and any City employee enforcing any City ordinance, State law or regulation may submit a written request for information relevant to such enforcement to the licensee by first class mail, at the address of the licensed premises.

(b) The licensee shall provide complete written answers to such questions, signed by the registered manager, within twenty (20) days of the date that the request was mailed or hand delivered to the licensee or registered manager.

(c) The licensee, principals, registered manager and employees shall have no expectation of privacy in any information or document pertaining to the operation of the licensed business, licensed premises and adjacent grounds as to the State or City, but the City shall not release the information and records as public records.

(d) In the event that the licensee refuses to provide answers on the grounds that the answer may tend to incriminate him or her for some criminal offense, or on advice of legal counsel, the City and Authority may properly draw the inference and conclusion that the answer to the question would have been adverse to the licensee's position regarding the investigation or other matter then pending, and may institute a complaint and proceedings for sanctions based on such conclusion.

(e) The licensee may not refuse to answer a question submitted to it on the grounds that:

(1)The answer may incriminate its principals, financiers, registered manager or employees;

(2)The answer might place his or her license in jeopardy; or

(3)The question is not relevant.

Article IV
Disciplinary Actions Against Licenses

Sec. 11-11-401. General.

(a) Administrative actions to impose sanctions against a licensee may be initiated only by complaint filed by the City or by the Authority on its own motion.

(b) The Authority shall review the complaint administratively and determine whether the complaint and any documents or exhibits submitted therewith show probable cause to believe that grounds for sanctions exist. If the Authority finds that the complaint along with any documents or exhibits submitted therewith do not show probable cause to believe that a

violation of this Chapter, State law or State regulations has occurred, the Authority shall dismiss the complaint without prejudice to refile the complaint with additional information showing probable cause. If the Authority finds that the complaint along with the documents or exhibits submitted therewith show probable cause to believe that a violation of this Chapter, State law or State regulations has occurred, the Authority shall issue an Order to Show Cause to the licensee requiring the licensee to appear before the Authority on a specific date and at a specific time to answer the complaint.

(c) Sanctions may be imposed in a hearing for sanctions, renewal, denial or for approval of major changes, but the City or Authority shall place the licensee on notice that sanctions may be sought and the grounds for the same by filing a complaint and obtaining an Order to Show Cause from the Authority.

(d) The Authority may impose sanctions against a licensee based on any of the grounds stated in Section 11-11-309 of this Chapter.

(e) In the event that a license expires while proceedings for sanctions are pending, the license may be temporarily extended until the Authority's final decision. The licensee shall pay a license extension fee for each thirty (30) day period or portion thereof that the license is temporarily extended. If the fee is not paid, the license shall expire. After the Authority renders its final decision, and said decision does not revoke or suspend the license, the licensee shall submit an application for renewal within fifteen (15) days of the Authority's final decision.

(f) A licensee shall have no right to surrender its license while an investigation, complaint or proceeding for sanctions is pending, but the Authority may permit the same if the City consents to the surrender.

(g) No complaint or action for the sanctions provided in this Chapter shall be instituted or based upon any conduct or omission by a licensee, principal, registered manager or employee that occurred more than three years before the complaint for sanctions was filed, but such conduct or omissions may be admitted in evidence if relevant to other violations that have occurred within the three year limitation period.

Sec. 11-11-402. Sanctions.

(a) The Authority may impose any one or more of the following sanctions against a license, in whatever combination the Authority finds appropriate, except that no other sanction may be used in addition to revocation:

(1) Additional conditions as described in Section 11-11-312;

(2) A fine in a reasonable amount to be determined by the Authority;

(3) Suspension for up to one hundred eighty (180) days;

(4) Fine in lieu of suspension;

(5) The reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the City Attorney, police officers, witnesses, subpoenas, Clerk to the Authority, hearing officer and other City employees utilized in any proceedings for sanctions; and

(6) Revocation.

(b) The Authority may suspend any sanction or portion of a sanction on any reasonable condition that the Authority deems appropriate in its discretion.

Sec. 11-11-403. Factors to consider in determining sanctions.

(a) In determining the appropriate sanction and whether any sanction or portion of a sanction should be suspended, the Authority shall consider the following factors:

(1) The severity of the violation;

(2) Whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently or accidentally;

(3) Whether the licensee profited or gained some competitive advantage from the violation or attempted to do so;

(4) Potential and actual harm to persons or businesses and the reputation of the retail marijuana industry;

(5) Harm to public health, safety and welfare;

(6) Warnings given to the licensee, principals, registered manager or employees by the Authority or any State or City employee before the violation occurred;

(7) The deterrent effect of the sanction on the licensee and other licensees;

(8) Whether the violation was committed or permitted by a principal, registered manager or employee;

(9)Previous violations by the licensee, principals, registered manager or employees of the same or different nature and at the same or different licensed premises, including contempt;

(10) Previous sanctions imposed on the licensee, including sanctions for contempt;

(11) Steps taken by the licensee before the violation occurred to prevent the violation from occurring;

(12) Whether the violation occurred on the licensee's licensed premises or its adjacent grounds, or the licensed premises or adjacent grounds of another licensee;

(13) Any plans that the licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and

(14) Any other aggravating or mitigating factors, except those that the Authority may not consider.

(b) In determining the appropriate sanction, the Authority shall not consider the following factors:

(1)Gender, race, ethnicity, ancestry, religion or sexual orientation;

(2)The licensee's business income at the licensed premises;

(3)The probable effect of the sanction on the licensee's finances;

(4)Any criminal sanction imposed on any person as a result of the same or related conduct;

(5)Any administrative penalty imposed by the State as a result of the same or related conduct;

(6)Any civil judgment imposed as a result of the same or related conduct;

(c) The administrative sanctions provided in this Section are intended to be in addition to any administrative, civil or criminal penalty, or judgment imposed by any court or licensing authority.

Sec. 11-11-404. Summary suspension.

(a) The Authority may summarily suspend any license without notice or hearing if the Authority finds, administratively, that there is probable cause to believe that:

(1)The licensee or its principals, registered manager or employees have committed a willful or deliberate violation of this Chapter; and

(2)The continued operation of the retail marijuana license poses an immediate and substantial threat to public health, safety and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial harm to public health, safety and welfare.

(b) If the Authority imposes a summary suspension administratively, it shall notify the licensee in writing as soon as is practical that it has been summarily suspended, that it must close its licensed premises, and the date, time and place of the three-day hearing to follow.

(c) The Authority shall hold a hearing within three (3) business days, at which the licensee may be present, to determine whether the summary suspension should continue pending a full hearing on the alleged violation.

(d) The Authority shall set a full hearing on the sanctions to be imposed for the violation that led to summary suspension to be held within fifteen (15) days from the date the licensee was first informed of the summary suspension and required to close the licensed premises, unless the Authority finds at the three-day hearing or upon the City's motion that there no longer is probable cause to believe that a violation occurred.

(e) The licensee may waive the fifteen (15) day hearing requirement and request a later hearing, but such waiver shall operate as consent to continue the summary suspension until the later date.

Sec. 11-11-405. Imputing knowledge and violations to the licensee.

(a) Any fact that a licensee's principal, registered manager or employee knows or once had knowledge of, or in the exercise of reasonable diligence should know, or should have once known, shall be imputed to the licensee for purposes finding whether a violation occurred and imposing sanctions.

(b) Any fact that occurs in the licensed premises or adjacent grounds that a reasonable person observing the area would be aware of shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

(c) Any violation of law committed by a licensee's principal, registered manager or employee, or which any of the same permit on the licensed premises or adjacent grounds, shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

Sec. 11-11-406. Effect of sanctions.

(a) New conditions. A licensee who has new conditions imposed on the license as a sanction shall bring the licensed premises into compliance with the new condition within such period as the Authority may specify in its order. Failure to do may be grounds for further sanctions.

(b) Fine, fine in lieu of suspension and costs. A licensee who has a fine, a fine in lieu of suspension or costs imposed on the license shall:

(1)Pay the fine and costs imposed within the time specified in the Authority's order. In the event that the fine is not paid within the time specified in the Authority's order, the Authority may impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.

(2)Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height for a period of ten (10) continuous days which shall be specified in the Authority's order, stating:

THE RETAIL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN FINED AND ADJUDGED COSTS BY THE PUEBLO RETAIL MARIJUANA LICENSING AUTHORITY IN THE AMOUNT OF $______ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO RETAIL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(c) Suspension of license. A licensee whose license has been suspended shall:

(1)Close the licensed premises to all persons except the registered manager and employees during the term of the suspension.

(2)Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height during the period that the suspension is imposed, stating:

THE RETAIL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN SUSPENDED BY ORDER OF THE PUEBLO RETAIL

MARIJUANA LICENSING AUTHORITY FOR ____ DAYS FROM ______________ THROUGH ________________ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO RETAIL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

(d) Revocation of license. A licensee whose license is revoked shall:

(1)Close the licensed premises and dispose of all retail marijuana on the licensed premises through legal means within such time and by such means as the Authority may order.

(2)Not be eligible to apply for a new license for a period of two (2) years.

Article V
License Hearings

Sec. 11-11-501. Notice of hearings; setting of hearings.

(a) Notice for hearings on applications for new licenses, denial of a new license, renewals of licenses and approval of major changes shall be given to the public in the manner prescribed by State law by posting the proposed premises and publishing a notice in a newspaper of general circulation at least fifteen (15) days before the hearing, stating the name of the applicant, the address of the proposed licensed premises and the type of license applied for.

(b) All notices shall state the date, time and place of the hearing, the name of the applicant or licensee, the address of the proposed or licensed premises, the date, time and place of the hearing, and the issue before the Authority.

(c) The applicant shall have the responsibility to set the matter with the Clerk of the Authority for a hearing, publish notices, provide a publisher's affidavit of publication, post the premises with notice as required by this Chapter and state law and provide an affidavit of posting.

(d) Failure of an applicant to properly publish notice of the hearing, post the premises with notice of the hearing as provided in this Chapter and provide proper affidavits of the same shall deprive the Authority of jurisdiction to hold a hearing on the application.

(e) Applicants for a new license seeking a hearing under Section 11-11-311 of this Chapter shall have the sole responsibility to:

(1)Conduct the setting of the hearing with the Clerk of the Authority within the time limits prescribed in Subsection 11-11-311;

(2)Select a date for the hearing that is not less than thirty (30) and no more than ninety (90) days from the day of the setting; and

(3)Publish and post the proposed premises with notice as required in this Chapter.

(f) Failure of an applicant to successfully bring an application for a new license or any major change to a hearing in compliance with every requirement of this Section shall constitute withdrawal of the application. Withdrawal of an application under this Section shall not constitute a denial of the application under Paragraph 11-11-308 and shall not prevent the applicant from resubmitting its application upon payment of a new application fee.

Sec. 11-11-502. Hearing procedures.

(a) Hearings shall be conducted in accordance with the procedures outlined in this Chapter. Where this Chapter does not address a procedural issue, the procedures in Chapter 7, Title I, Pueblo Municipal Code, Article 43.4, Title 12, C.R.S., and any procedural rules enacted pursuant to that article shall apply unless the same are clearly inconsistent with the provisions of this Chapter.

(b) Failure of an applicant or licensee to appear at any scheduled hearing of which the applicant or licensee has received notice or has himself or herself set, and for which notice was posted and published in compliance with this Chapter, without a showing of good cause verified by the applicant's affidavit filed with the authority within ten (10) days of the scheduled hearing, shall constitute a default and a withdrawal of the application or motion, and a default of any complaint, Order to Show Cause, motion or other matter pending against the licensee. Any such application or motion withdrawn by the applicant or licensee may not be re-filed for one (1) year.

(c) After an application has been filed, a hearing on the application has been set and notice has been published and posted in compliance with this Chapter, any withdrawal of the application by the applicant shall constitute a denial of the license under Section 11-11-308, unless the City stipulates that the withdrawal shall not constitute such a denial.

(d) The Authority may hear and decide motions.

(e) The Authority may adjourn and continue any hearing, at the request of the applicant and with the consent of the City, to give the applicant an opportunity to fulfill any requirement that has not been met or to make changes to its application or operational plan.

(f) The Authority may join various matters pending concerning the same license in a single hearing.

(g) Every decision of the Authority shall be in writing, stating the reasons therefor, and shall be made within thirty (30) days after the date of the conclusion of the public hearing. A copy of such decision shall be sent by certified mail to the applicant licensee at the address shown in the application or license.

Sec. 11-11-503. Discovery and subpoenas.

(a) Any complaint or motion for sanctions shall contain a summary of the legal and factual grounds for the same.

(b) Every party who has standing to be heard at a hearing shall provide a list of witnesses and exhibits to every other party who has standing, along with copies of the exhibits, at least ten (10) days before the hearing.

(c) Each party shall provide the other parties who have standing with copies of any statements or reports relevant to the matter.

(d) Each party shall provide to other parties who have standing copies of all documents filed with the Authority.

(e) No party shall be entitled to any additional discovery and the Authority shall not order any further discovery.

(f) Subpoenas for the attendance of witnesses with or without documents and other tangible things shall be issued as provided in Chapter 7, Title I, Pueblo Municipal Code.

Sec. 11-11-504. Burden of proof.

(a) In any proceeding under this Chapter to obtain approval or issuance of a license, renewal of a license, concerning denial of a new license, or to obtain approval for any new principal, registered manager or any major change, the applicant or licensee shall have the burden to prove by a preponderance of the evidence: (1) his or her right to such license; and (2) that there is no good cause for denial of the license or approval.

(b) In any proceeding under this Chapter in which any person seeks to impose a condition on a license, the person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare. Notwithstanding the foregoing, the Authority may, on its own motion, in any hearing for a new license, transfer of a license to a new location, or transfer of

a license to a new licensee, impose a condition on a license where it finds by a preponderance of the evidence that such condition is necessary to protect public health, safety or welfare.

(c) In any proceeding under this Chapter to impose any sanction against a license, the City shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence.

Sec. 11-11-505. Evidence.

(a) The Colorado Rules of Evidence and the common law rules of evidence shall not apply to hearings under this Chapter. The Authority may accept into evidence any testimony or exhibit and give such evidence the weight that the Authority believes it deserves.

(b) The Authority may accept hearsay and multiple-hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable and trustworthy and has probative value accepted by reasonable and prudent persons in the conduct of their affairs. The Authority shall not be required to make a finding that the hearsay meets this standard. If the Authority admits the hearsay, it shall be conclusively presumed that the hearsay met this standard unless the Authority makes findings to the contrary.

(c) The Authority shall have the authority to exclude testimony and other evidence as irrelevant, cumulative or on the ground that the witness or exhibit was not disclosed ten (10) days prior to the hearing.

(d) The Authority may take administrative notice of any matter contained in its file.

(e) The Board may delegate to the chair or another member of the Board the authority to make procedural and evidentiary rulings at any hearing, but every member of the Board present shall vote on the findings and conclusions at the conclusion of the hearing.

Sec. 11-11-506. Standing.

(a) At any hearing for issuance of a new license, for denial of a new license, for renewal or for any major change in the license, only the following parties shall have standing to be heard:

(1) The applicant or licensee;

(2) Any person who resides within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises;

(3) Any person who owns any real property within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises;

(4) Any person who owns any business within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises; and

(5) The City of Pueblo.

(b) At all other hearings, only the applicant or licensee and the City of Pueblo shall have standing.

Article VI
Violations and Penalties

Sec. 11-11-601. Unlawful acts – any person.

It shall be unlawful for any person to:

(1) Make any false statement, written or verbal, to the Authority or to any City employee, in any investigation, inquiry, hearing, testimony, application, report or document related in any way to retail marijuana or the licensing thereof;

(2) Smoke or consume any marijuana, marijuana plant or marijuana product on a licensed premises or the adjacent grounds.

Sec. 11-11-602. Unlawful acts – licensees, principals, registered managers and employees.

It shall be unlawful for any licensee, principal, registered manager or employee of a licensee to commit any of the following acts:

(1) To violate or to fail, neglect or refuse to comply with any requirement of this Chapter, Chapter 1, Title IX Pueblo Municipal Code, Article 43.4, Title 12, C.R.S., or any State regulation pertaining to retail marijuana.

(2) To permit any violation of this Chapter or any law or regulation on the licensed premises or the adjacent grounds.

(3) To operate a retail marijuana establishment at any time that any of the requirements or conditions contained in Sections 11-11-301 and 11-11-308 of this Chapter are not satisfied.

(4) To fail, neglect or refuse to collect sales taxes on any transaction or to promptly pay any sales and use tax, excise tax, fee or charge required under this Chapter or under the Pueblo Municipal Code.

(5) To fail, neglect or refuse to promptly provide any books, records, reports, information, documents or answers to requests for information required under this Chapter.

(6) To refuse to provide signed answers to requests for information, except as provided in this Chapter, or to refuse to answer any request for information on any grounds prohibited under this Chapter.

(7) To violate any ordinance, statute or regulation on the licensed premises or on the adjacent grounds.

(8) To violate any condition or to permit the violation of any condition placed on a license issued under this Chapter or by the State.

(9) To permit anyone under the age of twenty-one (21) to be present on the licensed premises.

(10) To permit anyone who is not an employee to enter the limited access area.

(11) To permit any employee to enter the limited access area without a visible employee badge.

(12) To conduct any cultivation, manufacturing, testing, processing, packaging, display, sale or exchange of marijuana plants, harvested marijuana or marijuana products outside the licensed premises.

(13) To transport any quantity of marijuana or marijuana products without carrying with the marijuana or marijuana products, a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest showing the following information:

a. The weight and volume of marijuana or marijuana products carried;

b. A description of the make, model and VIN number of the vehicle carrying the marijuana or marijuana products;

c. The name and address of the driver of the vehicle;

d. The name and address of the licensed retail marijuana establishment from which the retail marijuana originated;

e. The name and address of the licensed marijuana establishment to which the marijuana or marijuana products is being delivered;

f. The date and time that the marijuana or marijuana products departed the licensed marijuana establishment where the marijuana originated.

Sec. 11-11-603. Penalties.

Any person who violates any provision of this Chapter or fails, neglects or refuses to perform any act required under this Chapter shall, upon conviction thereof, be guilty of a Class 1 municipal offense and shall be punished by a fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than one (1) year, or both such fine and imprisonment. . (Ord. No. 8750, 6-23-14)